

# Retirement Villages Amendment Bill 2024

## Contents

### Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2

### Part 2 — *Retirement Villages Act 1992* amended

3.	Act amended	3
4.	Section 3 amended	3
5.	Section 5 amended	5
6.	Section 6 amended	5
7.	Section 8 amended	6
8.	Section 13 amended	6
9.	Section 13A inserted	7
	13A. Residence contracts enforceable against current administering bodies	7
10.	Section 14A amended	7
11.	Sections 14B to 14D inserted	8
	14B. Community arrangements statements	8
	14C. Prospective costs documents	9
	14D. Property condition report at start and end of occupation of residential premises	10
12.	Section 14 amended	11
13.	Section 15 amended	11
14.	Section 15A inserted	12
	15A. Amendment of memorial	12
15.	Section 17 amended	13
16.	Section 18 amended	14
17.	Section 19 amended	16
18.	Section 20 amended	17
19.	Section 21 amended	17
20.	Sections 21A to 21D inserted	18

**Contents**

---

21A.	Modifications of retirement villages	18
21B.	State Administrative Tribunal orders relating to modifications	20
21C.	Rules of conduct for administering bodies and residents	22
21D.	Financial arrangements and budget obligations	23
21.	Section 22 amended	24
22.	Sections 23 and 24 deleted	26
23.	Parts 3A to 3C inserted	27
<b>Part 3A — Leaving a retirement village</b>		
<b>Division 1 — General</b>		
26.	Term used	27
27.	Reinstatement and renovation of residential premises	27
28.	Liability for recurrent charges	29
<b>Division 2 — Exit entitlements</b>		
29.	Payment of exit entitlements	30
30.	Payment of recurrent charges from exit entitlement	32
31.	Payment of daily accommodation payments from exit entitlement	33
<b>Division 3 — Buybacks</b>		
32.	Residential premises to which Division applies	34
33.	Buyback of residential premises that are owned	35
34.	Requirements for buyback	35
35.	Timing of purchase	35
36.	Terms of contract	36
<b>Division 4 — Miscellaneous</b>		
37.	Valuations — exit entitlements and buybacks	37
38.	Extensions — exit entitlements and buybacks	38
39.	Exemptions — exit entitlements and buybacks	39
40.	Resident's remedies for contraventions of Part	41
<b>Part 3B — Capital items</b>		
41.	Terms used	42
41A.	Capital items generally	43
41B.	Plans for capital maintenance and capital replacement	44
41C.	Capital maintenance	45
41D.	Capital replacement	46

	<b>Part 3C — Residents' participation</b>	
	41E. Residents' meetings	46
	41F. Special resolutions	47
	41G. Residents' committee	47
24.	Section 42 replaced	49
	42. Dispute resolution otherwise than by Tribunal	49
25.	Section 57A amended	50
26.	Section 77C amended	50
27.	Sections 78 and 78A inserted	50
	78. Administering bodies to provide Commissioner information for register of retirement villages	50
	78A. Commissioner to keep and publish register of retirement villages	51
28.	Section 79 amended	51
29.	Section 82 amended	52
30.	Schedule 1 Division 3 inserted	52
	<b>Division 3 — Provisions relating to Retirement Villages Amendment Act 2024</b>	
	6. Term used: amending Act	53
	7. Transitional regulations	53
	8. Inserted provisions, and regulations under them, extend to existing arrangements	54
	9. Amendment of memorials	55
	10. Exit entitlements and buybacks	55
	11. Capital items	55
	12. Residents' committees	56
	13. Provision of information to Commissioner	56
	14. Amendments do not affect existing proceedings	56
31.	Various penalties amended	56
	<b>Part 3 — Duties Act 2008 amended</b>	
32.	Act amended	58
33.	Section 112 amended	58



Western Australia

LEGISLATIVE ASSEMBLY

## **Retirement Villages Amendment Bill 2024**

**A Bill for**

**An Act to amend the *Retirement Villages Act 1992* and to make a related amendment to the *Duties Act 2008*.**

The Parliament of Western Australia enacts as follows:

**Part 1 — Preliminary**

**1. Short title**

This is the *Retirement Villages Amendment Act 2024*.

**2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

**Part 2 — Retirement Villages Act 1992 amended**

**3. Act amended**

This Part amends the *Retirement Villages Act 1992*.

**4. Section 3 amended**

- (1) In section 3(1) delete “Act, unless the contrary intention appears — ” and insert:

Act —

- (2) In section 3(1) delete the definition of *premium*.

- (3) In section 3(1) insert in alphabetical order:

*approved form* means the form approved by the Commissioner under section 8(2);

*authorised deposit-taking institution* has the meaning given in the *Banking Act 1959* (Commonwealth) section 5(1);

*exit entitlement* means any amount of money that is, under a residence contract, payable by an administering body in connection with a resident permanently vacating residential premises in a retirement village;

*ingoing contribution* —

- (a) means a payment, however described, made by or on behalf of a person in consideration for, or in contemplation of, the person becoming a resident in a retirement village; but

- (b) does not include —

- (i) a recurrent charge; or  
(ii) a payment of a prescribed kind;

**s. 4**

---

1                    **judicial member** has the meaning given in the *State*  
2                    *Administrative Tribunal Act 2004* section 3(1);

3                    **permanently vacated** has the meaning given in  
4                    subsection (1A);

5                    **special resolution** means a resolution passed at a  
6                    meeting of the residents of a retirement village in  
7                    accordance with section 41F;  
8

9                    (4) In section 3(1) in the definition of **retirement village scheme** or  
10                    **scheme** delete:

11  
12                    or **scheme**  
13

14                    (5) In section 3(1) in the definition of **retirement village scheme**  
15                    delete “resident or prospective resident of residential premises  
16                    pays a premium in consideration for, or in contemplation of,  
17                    admission as a resident under the scheme;” and insert:

18  
19                    person pays an ingoing contribution;  
20

21                    (6) In section 3(1) in the definition of **service contract** delete the  
22                    passage that begins with “of — ” and continues to the end of the  
23                    definition and insert:

24  
25                    of services, amenities and facilities in the retirement village;  
26

(7) After section 3(1) insert:

(1A) Residential premises in a retirement village are *permanently vacated* by a resident if —

- (a) the goods and belongings of the resident have been removed from the residential premises; and
- (b) the resident has ceased to reside in the residential premises; and
- (c) the right to exclusively occupy the residential premises has been given up by the resident (or, if the resident is deceased, by the estate of the resident) by returning the keys to the residential premises to the administering body.

**5. Section 5 amended**

Delete section 5(2) and insert:

- (2) This Act does not apply in relation to residential premises in a retirement village that are used to provide residential care as defined in the *Aged Care Act 1997* (Commonwealth) section 41-3.

**6. Section 6 amended**

In section 6(1) delete “subsection (2) and without affecting the operation of sections 23(4) and 24(6),” and insert:

subsection (2),

**s. 7**

---

**7. Section 8 amended**

(1) After section 8(1)(a) insert:

(aa) to keep a register of retirement villages;

(2) After section 8(1) insert:

(2) The Commissioner may approve forms for use under this Act.

**8. Section 13 amended**

(1) Delete section 13(2)(a) and insert:

(a) a community arrangements statement under section 14B; and

(aa) a prospective costs document under section 14C; and

(2) After section 13(2) insert:

(2A) Subsection (2) does not apply in relation to a second or subsequent residence contract between the person and the owner if there have been no material changes to the documents mentioned in that subsection since the owner last gave them to the person.

**9. Section 13A inserted**

After section 13 insert:

**13A. Residence contracts enforceable against current administering bodies**

A residence contract entered into with an administering body, or a former administering body, of a retirement village may be enforced against any administering body, for the time being, of the retirement village as if the residence contract had been entered into by that administering body.

**10. Section 14A amended**

(1) Before section 14A(1) insert:

(1A) In this section —

***village contract*** means —

- (a) a residence contract; or
- (b) a service contract.

(2) In section 14A(1) to (4) delete “residence” (each occurrence) and insert:

village

Note: The heading to amended section 14A is to read:

**Residence contracts and service contracts to comply with prescribed requirements**

**s. 11**

---

1     **11.       Sections 14B to 14D inserted**

2             After section 14A insert:

3

4             **14B.     Community arrangements statements**

5             (1)   The purpose of a community arrangements statement is  
6                 to provide information about the services, amenities  
7                 and facilities, and the residential premises, that are  
8                 provided, or made available, to residents of a  
9                 retirement village.

10            (2)   An administering body of a retirement village must, in  
11                 accordance with the regulations, prepare, and keep up  
12                 to date, a community arrangements statement.

13            (3)   A community arrangements statement must —  
14                 (a)   be in the approved form; and  
15                 (b)   contain the prescribed information.

16            (4)   The administering body must, within 14 days of any  
17                 change to a community arrangements statement, make  
18                 the current statement publicly available on a website  
19                 of —

20                 (a)   the administering body; or  
21                 (b)   the retirement village.

22                 Penalty for this subsection: a fine of \$20 000.

23            (5)   The administering body must give a person the current  
24                 community arrangements statement in the prescribed  
25                 way within 7 days after the day on which the person  
26                 asks for it.

27                 Penalty for this subsection: a fine of \$20 000.

- 1           (6) Subsection (5) does not apply if the administering body  
2           believes on reasonable grounds that the person has not  
3           asked for the community arrangements statement for  
4           the purpose of considering or deciding whether the  
5           person is or might be interested in becoming a resident  
6           of the retirement village.

7           **14C. Prospective costs documents**

- 8           (1) The purpose of a prospective costs document is to give  
9           a person a summary of the estimated costs of the  
10          person —  
11           (a) entering into occupation of residential premises  
12           in a retirement village; and  
13           (b) living in the retirement village; and  
14           (c) permanently vacating the residential premises.
- 15          (2) A prospective costs document must —  
16           (a) be in the approved form; and  
17           (b) contain the prescribed information.
- 18          (3) The administering body of a retirement village must  
19          give a person a prospective costs document in the  
20          prescribed way —  
21           (a) if the administering body, within 7 days after  
22           the day on which the person asks for the  
23           document, requests, in writing, information  
24           from the person reasonably necessary to  
25           prepare the document — within 7 days after the  
26           day on which the person gives the  
27           administering body the information; or  
28           (b) otherwise, within 7 days after the day on which  
29           the person asks for the document.
- 30          Penalty for this subsection: a fine of \$20 000.

**s. 11**

---

- 1           (4) Subsection (3) does not apply if the administering body  
2           believes on reasonable grounds that the person has not  
3           asked for the prospective costs document for the  
4           purpose of considering or deciding whether the person  
5           is or might be interested in becoming a resident of the  
6           retirement village.

7           **14D. Property condition report at start and end of**  
8           **occupation of residential premises**

- 9           (1) An administering body must, within 7 days after the  
10          day on which a resident enters into occupation of  
11          residential premises under a residence contract —  
12              (a) prepare a report describing the condition of the  
13              premises; and  
14              (b) provide 2 copies of the report to the resident.  
15          Penalty for this subsection: a fine of \$5 000.
- 16          (2) A resident given copies of a report under  
17          subsection (1)(b) who disagrees with any information  
18          in the report must, within 7 days after the day on which  
19          the resident receives the copies —  
20              (a) mark a copy in a manner that shows the  
21              information with which the resident disagrees;  
22              and  
23              (b) give the copy back to the administering body.
- 24          (3) If the resident does not give a copy of the report back  
25          to the administering body under subsection (2), the  
26          resident is taken to accept the contents of the report as  
27          a true and accurate description of the condition of the  
28          residential premises.

- 1           (4) An administering body must, as soon as practicable,  
2           and in any event within 14 days, after the day on which  
3           a resident permanently vacates residential premises in a  
4           retirement village —
- 5               (a) conduct an inspection of the residential  
6               premises; and
- 7               (b) prepare a final report describing the condition  
8               of the premises; and
- 9               (c) provide a copy of the report to the resident.
- 10          Penalty for this subsection: a fine of \$5 000.
- 11          (5) The resident must be given a reasonable opportunity to  
12          be present at the inspection conducted under  
13          subsection (4)(a).
- 14          (6) The regulations may prescribe information that must be  
15          included in a property condition report under  
16          subsection (1) or (4).
- 17

18   **12.       Section 14 amended**

19       After section 14(2) insert:

20

- 21           (3) This section applies despite, and does not limit any  
22           other entitlement to rescind a contract under, the *Sale*  
23           *of Land Act 1970*.
- 24

25   **13.       Section 15 amended**

26       In section 15(2) delete “repayment of a premium or” and insert:

27

28       payment of an exit entitlement or repayment of

29

**s. 14**

---

**14. Section 15A inserted**

After section 15 insert:

**15A. Amendment of memorial**

- (1) An owner of land used for a retirement village may apply to the State Administrative Tribunal for, and the Tribunal may make, an order directing the Registrar of Titles to amend the Register under the *Transfer of Land Act 1893* so that a memorial registered under section 15 is no longer registered against a specified part of that land.
- (2) The application may (but need not) be made and heard concurrently with an application for an order under section 21B.
- (3) The Tribunal may make the order only if satisfied that —
  - (a) the specified part of the land is not, or from a specified date will not be, used for a retirement village; and
  - (b) the value of the land, other than the specified part, is sufficient to secure the right of each resident or former resident of the retirement village to the payment of an exit entitlement.
- (4) The Registrar of Titles must amend the Register as directed by the order.
- (5) Without limitation —
  - (a) the Tribunal may specify a date on which the Register must be amended; and
  - (b) the Registrar of Titles must amend the Register, as directed, on the specified date.

- 1           (6) The Tribunal's powers under this section are  
2           exercisable only by —  
3               (a) a judicial member; or  
4               (b) the Tribunal constituted by a judicial member  
5               and other members.  
6

7 **15. Section 17 amended**

- 8           (1) After section 17(1)(d) insert:  
9

- 10               (da) without limiting paragraph (d), the residence  
11               contract is terminated by the State  
12               Administrative Tribunal in connection with an  
13               order made under section 22; or  
14

- 15           (2) In section 17(2) delete “(c) and (d)” and insert:  
16

- 17               (c), (d) and (da)  
18

- 19           (3) After section 17(2) insert:  
20

- 21               (2A) This section does not apply in relation to a residential  
22               tenancy agreement.  
23

**s. 16**

---

1     **16.     Section 18 amended**

2         (1)   Before section 18(1) insert:

3

4             (1A)   In this section —

5                     *administering body* includes a developer, or any other  
6                     person, involved in the development or construction of  
7                     a retirement village.

8

9         (2)   In section 18(1):

10            (a)   delete “Subject to subsection (2), a premium paid to the  
11                    administering body shall” and insert:

12

13                    An ingoing contribution paid to an administering body  
14                    must

15

16            (b)   in paragraph (a) delete “whose behalf the premium” and  
17                    insert:

18

19                    behalf of whom the ingoing contribution

20

21         (3)   Delete section 18(2A) to (3) and insert:

22

23            (2A)   An administering body is guilty of an offence if —

24                    (a)   an ingoing contribution is paid to the  
25                    administering body; and

26                    (b)   the ingoing contribution is not held in trust or  
27                    invested as required by subsection (1).

28                    Penalty for this subsection: a fine of \$20 000.

29

- 1       (4) In section 18(4):
- 2           (a) delete “prospective resident” (1<sup>st</sup> occurrence) and insert:
- 3
- 4                   person by or on behalf of whom the ingoing contribution
- 5                   was paid
- 6
- 7           (b) delete “premium shall” and insert:
- 8
- 9                   ingoing contribution must
- 10
- 11          (c) in paragraph (a) delete “prospective resident’s” and
- 12           insert:
- 13
- 14                   person’s
- 15
- 16          (d) in paragraph (a) delete “prospective resident;” and
- 17           insert:
- 18
- 19                   person;
- 20
- 21          (e) in paragraph (b) delete “will be” and insert:
- 22
- 23                   is
- 24
- 25       (5) Delete section 18(5) and insert:
- 26
- 27       (5) An administering body is guilty of an offence if —
- 28           (a) a question affecting entitlement to or
- 29           disposition of the ingoing contribution is
- 30           required by subsection (4) to be determined by
- 31           reference to the residence contract and the
- 32           administering body fails to act in accordance
- 33           with that requirement; or

**s. 17**

---

- 1 (b) interest and accretions arising from investment  
2 of the ingoing contribution are required by  
3 subsection (4)(a) to be paid to the person by or  
4 on behalf of whom the ingoing contribution  
5 was paid and the interest and accretions are not  
6 paid accordingly.

7 Penalty for this subsection: a fine of \$20 000.

8  
9 Note: The heading to amended section 18 is to read:

10 **Ingoing contributions**

11 **17. Section 19 amended**

12 (1) Delete section 19(1) and insert:

- 13  
14 (1) A service contract entered into with an administering  
15 body, or a former administering body, of a retirement  
16 village may be enforced against any administering  
17 body, for the time being, of the retirement village as if  
18 the service contract had been entered into by that  
19 administering body.

20  
21 (2) In section 19(2) delete “a service to” and insert:

22  
23 services, amenities and facilities to  
24

25 (3) Delete section 19(3) to (5).

26 (4) Delete section 19(6)(a) and insert:

- 27  
28 (a) the owner is a party to a contract under which  
29 an exit entitlement is payable in relation to the  
30 resident; or  
31

1       (5) Delete section 19(7).

2               Note: The heading to amended section 19 is to read:

3                       **Service contracts**

4       **18.       Section 20 amended**

5       (1) In section 20(1) delete “repayment of a premium, or part of a  
6               premium, under section 19” and insert:

7  
8               payment of an exit entitlement  
9

10       (2) Delete section 20(3) and (4) and insert:

11  
12               (3) The charge has priority over all mortgages, charges and  
13               encumbrances created or arising in relation to the land  
14               after registration of the relevant memorial under  
15               section 15.  
16

17       **19.       Section 21 amended**

18       (1) In section 21(1) delete “repayment of a premium or part of a  
19               premium” and insert:

20  
21               payment of an exit entitlement  
22

23       (2) In section 21(2)(a) delete “the recovery of the resident’s  
24               premium or part of a premium,” and insert:

25  
26               payment of the exit entitlement,  
27

**s. 20**

---

- 1       (3) In section 21(3)(d):
- 2               (a) delete “refundable premium or part of a premium” and
- 3               insert:
- 4
- 5               exit entitlement
- 6
- 7               (b) delete “premiums or parts of premiums” and insert:
- 8
- 9               exit entitlements
- 10

11       **20. Sections 21A to 21D inserted**

12               After section 21 insert:

13

14       **21A. Modifications of retirement villages**

- 15       (1) In this section and section 21B —
- 16               *modification*, of a retirement village, means the
- 17               following —
- 18               (a) redevelopment of the land used for the
- 19               retirement village, including —
- 20                       (i) a change to the boundaries of the land
- 21                       (including by subdivision and excision);
- 22                       and
- 23                       (ii) the construction, demolition or change
- 24                       of use of a building or structure
- 25                       (including residential premises); and
- 26                       (iii) the expansion or reduction of
- 27                       greenspace or parkland;

- 1 (b) a change to the services, amenities and facilities  
2 that are provided, or made available, to  
3 residents by the administering body, including  
4 by way of the following —
- 5 (i) a reduction or an increase in, or the  
6 withdrawal of, the services, amenities  
7 and facilities;
- 8 (ii) any other change to the services,  
9 amenities and facilities;
- 10 (iii) the provision of new services, amenities  
11 and facilities;
- 12 (c) anything else prescribed as a modification.
- 13 (2) An administering body must not carry out a  
14 modification of a retirement village unless —
- 15 (a) subsections (3) to (5) are complied with; or  
16 (b) the modification is —
- 17 (i) of a prescribed kind; or  
18 (ii) carried out in prescribed circumstances.
- 19 Penalty for this subsection: a fine of \$20 000.
- 20 (3) Firstly, the administering body must, in accordance  
21 with the regulations, give each resident a plan relating  
22 to the modification (a ***modification plan***) —
- 23 (a) in the approved form; and  
24 (b) containing the prescribed information.
- 25 (4) Secondly, the modification plan must be approved  
26 by —
- 27 (a) a special resolution passed at a residents'  
28 meeting; or  
29 (b) an order under section 21B(1).

**s. 20**

---

- 1           (5) Thirdly, if the modification plan requires a resident to  
2           vacate residential premises in the retirement village —  
3               (a) the resident must consent to vacating the  
4               residential premises; or  
5               (b) the Tribunal must have made an order under  
6               section 21B(4) declaring that the resident has  
7               unreasonably withheld consent.
- 8           (6) Regardless of the terms of any residence contract or  
9           service contract, an administering body does not breach  
10          the contract by carrying out the modification if —  
11               (a) subsections (3) to (5) are complied with; and  
12               (b) the administering body carries out the  
13               modification in accordance with the  
14               modification plan as approved.
- 15          (7) An administering body must not carry out a  
16          modification of a retirement village otherwise than in  
17          accordance with an approved modification plan.  
18          Penalty for this subsection: a fine of \$20 000.

19          **21B. State Administrative Tribunal orders relating to**  
20          **modifications**

- 21           (1) An administering body may apply to the State  
22           Administrative Tribunal for, and the Tribunal may  
23           make, an order approving a modification plan.
- 24           (2) The Tribunal must not make an order under  
25           subsection (1) unless —  
26               (a) the modification plan —  
27                   (i) is in the approved form; and  
28                   (ii) contains the prescribed information;  
29               and

- 1 (b) a special resolution to approve the plan is voted  
2 on at a residents' meeting but does not pass;  
3 and  
4 (c) the Tribunal is satisfied that, in the  
5 circumstances of the case —  
6 (i) the failure to pass the special resolution  
7 is unreasonable; or  
8 (ii) it is otherwise appropriate to make the  
9 order.
- 10 (3) The Tribunal may approve a modification plan with  
11 any amendments specified in the order (and in that case  
12 the approved modification plan is the plan as amended  
13 by the order).
- 14 (4) An administering body may apply to the Tribunal for,  
15 and the Tribunal may make, an order declaring that a  
16 resident has unreasonably withheld consent to vacating  
17 residential premises in a retirement village as required  
18 by a modification plan.
- 19 (5) If the Tribunal makes an order under subsection (4),  
20 the Tribunal —  
21 (a) must fix in the order a date by which the  
22 resident must vacate the residential premises  
23 occupied by the resident; and  
24 (b) may make such other orders as the Tribunal  
25 thinks fit, including an order that the  
26 administering body pay to the resident —  
27 (i) the costs of vacating, or relocating from,  
28 the residential premises occupied by the  
29 resident; or  
30 (ii) compensation for the resident's loss of  
31 rights under a residence contract or a  
32 service contract.

**s. 20**

---

- 1 (6) A resident may apply to the Tribunal for, and the  
2 Tribunal may make —
- 3 (a) an order to remedy a contravention of  
4 section 21A by an administering body; and
- 5 (b) without limiting paragraph (a), an order  
6 requiring an administering body to take, or  
7 refrain from taking, specified action.
- 8 (7) An application for an order under this section may (but  
9 need not) be made and heard concurrently with an  
10 application for —
- 11 (a) any other order under this section; or  
12 (b) an order under section 15A.
- 13 **21C. Rules of conduct for administering bodies and**  
14 **residents**
- 15 (1) In this section —
- 16 *administering body* includes any employee, agent or  
17 other person acting on behalf of an administering body.
- 18 (2) The regulations may prescribe the following —
- 19 (a) rules of conduct for administering bodies and  
20 residents of retirement villages;
- 21 (b) requirements for administering bodies  
22 regarding professionalism, training,  
23 competencies, performance and behaviour in  
24 connection with the administration,  
25 management or operation of retirement  
26 villages;
- 27 (c) remedies for contraventions of regulations  
28 under paragraph (a) or (b).

- 1 (3) Without limiting subsection (2)(a) and (b), the  
2 regulations may prescribe requirements relating to the  
3 following —  
4 (a) knowledge about —  
5 (i) this Act; and  
6 (ii) the provisions of the *Community Titles*  
7 *Act 2018* and the *Strata Titles Act 1985*,  
8 and of any other written law, relevant to  
9 the administration, management or  
10 operation of retirement villages;  
11 (b) conduct in relation to dealings with current or  
12 prospective residents of retirement villages (for  
13 example, by reference to standards of honesty,  
14 fairness and professionalism);  
15 (c) conduct in relation to the marketing of  
16 retirement villages (including in relation to the  
17 use of terminology);  
18 (d) training and competencies for administering  
19 bodies.  
20 (4) Without limiting subsection (2)(c), the regulations may  
21 prescribe that an administering body or resident may  
22 apply to the State Administrative Tribunal for, and that  
23 the Tribunal may make —  
24 (a) an order to remedy a contravention of the  
25 regulations under subsection (2)(a) or (b); and  
26 (b) without limiting paragraph (a), an order  
27 requiring an administering body to take, or  
28 refrain from taking, specified action.

29 **21D. Financial arrangements and budget obligations**

- 30 (1) The regulations may make provision about the  
31 obligations of the administering body of a retirement  
32 village in relation to the retirement village's budget and  
33 financial arrangements.

**s. 21**

---

- 1           (2) Without limiting subsection (1), the regulations may  
2           make provision about the following —
- 3               (a) preparation of proposed annual budgets by the  
4               administering body;
- 5               (b) expenditure of funds in accordance with an  
6               annual budget;
- 7               (c) preparation of financial statements and other  
8               documents;
- 9               (d) provision of the statements and documents, and  
10              other financial information, to residents of the  
11              retirement village;
- 12              (e) consultation with residents regarding the  
13              content of the budget;
- 14              (f) accounting for the expenditure of funds and  
15              auditing;
- 16              (g) the provision of information to residents about  
17              insurance in relation to the retirement village.  
18

19   **21. Section 22 amended**

- 20       (1) Before section 22(1) insert:  
21

- 22       (1A) In this section —  
23           *terminate*, in relation to a retirement village scheme,  
24           includes to suspend, or effectively suspend, the  
25           retirement village scheme so that all residents are  
26           required to relocate, even if only temporarily, from the  
27           residential premises occupied by them.  
28

- 29       (2) In section 22(1) delete “Supreme Court” and insert:  
30

31           State Administrative Tribunal  
32

1       (3) In section 22(2) delete “Supreme Court’s” and insert:

2

3               Tribunal’s

4

5       (4) Delete section 22(3) and insert:

6

7               (3) The Tribunal must not approve the termination of a  
8               retirement village scheme unless the administering  
9               body —

10               (a) gives each resident a plan relating to  
11               termination of the scheme (a **termination**  
12               **plan**) —

13                       (i) in the approved form; and

14                       (ii) containing the prescribed information;

15               and

16               (b) holds a meeting of the residents, at least  
17               1 month after giving each resident the  
18               termination plan, to answer residents’  
19               questions, and provide further information,  
20               about the plan; and

21               (c) obtains for each resident, or takes all reasonable  
22               steps to assist each resident in obtaining,  
23               alternative accommodation —

24                       (i) that is of approximately the same  
25                       standard as, and requires no greater  
26                       financial outlay on the part of the  
27                       resident than, the residential premises  
28                       occupied by the resident; and

29                       (ii) that is acceptable to the resident or  
30                       reasonably ought to be acceptable to the  
31                       resident.

**s. 22**

---

- 1           (4) If the Tribunal makes an order approving the  
2           termination of a retirement village scheme, the  
3           Tribunal —
- 4               (a) must fix in the order a date by which each  
5               resident must vacate the residential premises  
6               occupied by the resident; and
- 7               (b) may make such other orders as the Tribunal  
8               thinks fit, including an order that the  
9               administering body pay to a resident —
- 10                   (i) the costs of vacating, or relocating from,  
11                   the residential premises occupied by the  
12                   resident; or
- 13                   (ii) compensation for the resident's loss of  
14                   rights under a residence contract or a  
15                   service contract.
- 16           (5) The Tribunal's powers under this section are  
17           exercisable only by —
- 18               (a) a judicial member; or
- 19               (b) the Tribunal constituted by a judicial member  
20               and other members.
- 21
- 22   **22.       Sections 23 and 24 deleted**
- 23       Delete sections 23 and 24.

**23. Parts 3A to 3C inserted**

After section 25 insert:

**Part 3A — Leaving a retirement village**

**Division 1 — General**

**26. Term used**

In this Part (and in sections 20 and 21) —  
*resident* includes former resident.

**27. Reinstatement and renovation of residential premises**

(1) In this section —

*capital gain*, in relation to residential premises in a retirement village, means any increase between —

- (a) the ingoing contribution paid by or on behalf of the resident permanently vacating the premises; and
- (b) the ingoing contribution paid, or to be paid, by or on behalf of the next resident to occupy the premises;

*reinstatement*, of a resident's residential premises in a retirement village, means the return of the premises to the condition required by this section;

*renovation*, of a residential premises, means improvement of the premises in excess of what is required for reinstatement.

(2) A resident must, on permanently vacating residential premises in a retirement village, leave the premises as nearly as possible in the same condition, fair wear and tear excepted, as they were in when the resident entered into occupation of the premises.

**s. 23**

---

- 1           (3) In particular, if the resident accepts, or is taken to  
2           accept, a property condition report under section 14D  
3           as a true and accurate description of the residential  
4           premises, the resident must leave the premises as  
5           nearly as possible in the same condition, fair wear and  
6           tear excepted, as set out in the report.
- 7           (4) The administering body of the retirement village may  
8           require the resident to pay for reinstatement of the  
9           resident's residential premises only if —
- 10               (a) the resident did not leave the premises in the  
11               condition required by this section; and
- 12               (b) the residence contract between the  
13               administering body and resident includes —
- 14                       (i) a term to the effect that the resident  
15                       must pay for reinstatement of the  
16                       premises; and
- 17                       (ii) a fixed amount payable for, or a method  
18                       of calculating the cost of, the  
19                       reinstatement.
- 20           (5) The administering body of the retirement village may  
21           require the resident to pay for renovation of the  
22           resident's residential premises only if all of the  
23           following apply —
- 24               (a) the administering body and resident agree on a  
25               plan for the renovation (a **renovation plan**);
- 26               (b) the renovation is in accordance with the  
27               renovation plan;
- 28               (c) the residence contract between the  
29               administering body and resident includes a term  
30               to the effect that the resident is entitled to a  
31               share of any capital gain that is at least in  
32               proportion to the amount of the renovation  
33               required by the administering body to be paid  
34               for by the resident.

- 1           (6) A renovation plan must —  
2               (a) be in the approved form; and  
3               (b) contain the prescribed information.
- 4           (7) The administering body of a retirement village must  
5               not demand or receive payment from a resident for  
6               reinstatement or renovation of residential premises  
7               otherwise than in accordance with this section.  
8               Penalty for this subsection: a fine of \$20 000.
- 9           (8) The administering body or resident may apply to the  
10               Tribunal for, and the Tribunal may make, an order in  
11               relation to the amount, if any, that the resident is  
12               required to pay for reinstatement or renovation of  
13               residential premises under this section.
- 14       **28. Liability for recurrent charges**
- 15           (1) The liability of a resident to pay recurrent charges  
16               arising after the resident has permanently vacated  
17               residential premises in a retirement village ends on the  
18               earliest of the following —  
19               (a) the date on which a new resident becomes  
20                   liable to pay recurrent charges in respect of the  
21                   premises;  
22               (b) the prescribed date;  
23               (c) the date on which the administering body is  
24                   required to pay an exit entitlement in relation to  
25                   the resident under section 29;  
26               (d) the date on which the administering body is  
27                   required to enter into a contract for, and  
28                   complete, the purchase of the residential  
29                   premises under Division 3;  
30               (d) the date agreed between the administering body  
31                   and the resident.

**s. 23**

---

(2) The administering body must not seek to recover from the residents of the retirement village, by increasing the recurrent charges payable by them or by demanding or receiving from them any additional fee or charge, any amount of recurrent charges —

- (a) arising after a resident has permanently vacated residential premises in a retirement village; and
- (b) for which the resident is not liable under this section.

Penalty for this subsection: a fine of \$20 000.

**Division 2 — Exit entitlements**

**29. Payment of exit entitlements**

(1) An administering body must pay an exit entitlement in relation to a resident —

- (a) on or before the earliest of the following —
  - (i) the date provided for in the residence contract between the administering body and resident;
  - (ii) the date that is 7 days after the day on which another person, with the consent of the administering body, enters into occupation of the residential premises occupied by the resident following the resident having permanently vacated those residential premises;
  - (iii) the date agreed between the administering body and resident (or the person to whom the exit entitlement is payable);
  - (iv) the date that is 12 months after the day on which the resident has permanently vacated the residential premises occupied by the resident;

- 1 (v) for a residence contract terminated by  
2 the State Administrative Tribunal in  
3 connection with an order made under  
4 section 22 — the date that is 10 days  
5 after the date fixed by the Tribunal as  
6 being the date the contract is terminated;  
7 or  
8 (b) if the resident grants the administering body an  
9 extension under subsection (2) —  
10 (i) the day after the end of the extended  
11 period; or  
12 (ii) if the resident revokes the extension —  
13 the day after the date that is 12 months  
14 after the date of revocation.  
15 Penalty for this subsection: a fine of \$20 000.
- 16 (2) A resident may, by notice in writing to the  
17 administering body —  
18 (a) extend the period within which the  
19 administering body would otherwise be  
20 required to pay an exit entitlement; and  
21 (b) revoke the extension at any time.
- 22 (3) The administering body must, at the same time as  
23 paying the exit entitlement, give the resident (or the  
24 person to whom the exit entitlement is payable) a  
25 statement —  
26 (a) setting out how the administering body  
27 calculated the exit entitlement; and  
28 (b) containing any other prescribed information.  
29 Penalty for this subsection: a fine of \$20 000.

**s. 23**

---

- 1 (4) If an administering body calculates, or is required by a  
2 residence contract to calculate, an exit entitlement by  
3 reference to the ingoing contribution paid, or to be  
4 paid, by or on behalf of the next resident to occupy the  
5 relevant residential premises, the exit entitlement is to  
6 be as agreed or decided under section 37.
- 7 (5) An exit entitlement not paid as required by this section  
8 may be recovered as a debt from the administering  
9 body, for the time being, of the retirement village.
- 10 (6) Subsection (1) does not apply —  
11 (a) for any period during which the administering  
12 body has a relevant extension, or an exemption,  
13 under Division 4; or  
14 (b) if the administering body has a reasonable  
15 excuse.
- 16 **30. Payment of recurrent charges from exit entitlement**
- 17 (1) A resident may, by written notice to the administering  
18 body of the retirement village, elect to pay, by way of a  
19 deduction from the resident's exit entitlement —  
20 (a) recurrent charges arising after the resident has  
21 permanently vacated residential premises in the  
22 village; and  
23 (b) interest on recurrent charges that, as a result of  
24 the election, are not paid by the resident as  
25 liability to pay them arises.
- 26 (2) Unless the relevant residence contract specifies that  
27 interest is not payable, the administering body may  
28 charge the resident the interest at the lowest of the  
29 following —  
30 (a) the prescribed rate;  
31 (b) the rate specified in the contract;

1                   (c) the rate agreed between the administering body  
2                   and the resident.

3           (3) If a resident elects to pay any recurrent charges under  
4           subsection (1), the administering body must not  
5           demand or receive payment of those charges otherwise  
6           than in accordance with that election.

7           Penalty for this subsection: a fine of \$20 000.

8           **31. Payment of daily accommodation payments from**  
9           **exit entitlement**

10          (1) In this section —

11               *approved provider* has the meaning given in the *Aged*  
12               *Care Quality and Safety Commission Act 2018*  
13               (Commonwealth) section 7;

14               *daily accommodation payment* has the meaning given  
15               in the *Aged Care Act 1997* (Commonwealth)  
16               Schedule 1;

17               *residential care* has the meaning given in the *Aged*  
18               *Care Act 1997* (Commonwealth) section 41-3.

19          (2) This section applies to a resident of a retirement village  
20          who is approved to enter residential care provided by  
21          an approved provider.

22          (3) The resident may, by written notice to the  
23          administering body of the retirement village, require  
24          the administering body to make daily accommodation  
25          payments on behalf of the resident, by way of a  
26          deduction from the resident's exit entitlement, to the  
27          approved provider.

28          (4) The administering body must make the daily  
29          accommodation payments until the earliest of the  
30          following —

31               (a) the total paid by the administering body equals  
32               80% of the exit entitlement;

**s. 23**

---

- 1 (b) the resident (or the person to whom the exit  
2 entitlement is payable) is entitled to be paid the  
3 exit entitlement;  
4 (c) the prescribed date.  
5 Penalty for this subsection: a fine of \$20 000.  
6 (5) The regulations may make provision about daily  
7 accommodation payments, including about the  
8 following —  
9 (a) the evidence a resident must provide the  
10 administering body of the resident's liability for  
11 the daily accommodation payments;  
12 (b) when payments must be made;  
13 (c) the matters that must addressed in a notice to  
14 the administering body.

**Division 3 — Buybacks**

**32. Residential premises to which Division applies**

- 17 (1) This Division applies only in relation to —  
18 (a) residential premises a right to occupation of  
19 which is conferred by ownership of shares; or  
20 (b) residential premises purchased from the  
21 administering body subject to a right or option  
22 of repurchase; or  
23 (c) residential premises purchased subject to  
24 conditions restricting the subsequent disposal of  
25 the premises; or  
26 (d) residential premises prescribed for the purposes  
27 of this paragraph.  
28 (2) In this Division and Division 4, a reference to  
29 residential premises is, for residential premises referred  
30 to in subsection (1)(a), a reference to the shares that  
31 confer the right to occupy the residential premises.

**33. Buyback of residential premises that are owned**

- (1) The administering body of a retirement village must enter into a contract for the purchase of a resident's residential premises in a retirement village, and complete the purchase, as required by this Division.  
Penalty for this subsection: a fine of \$20 000.

- (2) Subsection (1) does not apply —

- (a) if the residential premises are sold to a person other than the administering body before the day on which the administering body is required to complete the purchase; or
- (b) for any period during which the administering body has a relevant extension, or an exemption, under Division 4; or
- (c) if the administering body has a reasonable excuse.

**34. Requirements for buyback**

- (1) The administering body must enter into the contract and complete the purchase within the time required under section 35.
- (2) The contract must comply with section 36.
- (3) The purchase price under the contract is the value of the residential premises as agreed or decided under section 37.

**35. Timing of purchase**

- (1) The administering body must enter into the contract in sufficient time for the purchase to be completed under subsection (2).

**s. 23**

---

- 1           (2) The administering body must complete the purchase  
2           under the contract on or before —
- 3               (a) the day that is 12 months after the day on which  
4               the resident has permanently vacated the  
5               residential premises; or
- 6               (c) another day determined by the Tribunal.
- 7           (3) The administering body or resident may apply to the  
8           Tribunal for, and the Tribunal may make, an order  
9           determining a day for completion of the purchase.
- 10       **36. Terms of contract**
- 11           (1) The regulations may provide for terms that —
- 12               (a) must be included in the contract (a *required*  
13               *term*); or
- 14               (b) must not be included in the contract (a  
15               *prohibited term*).
- 16           (2) The contract must —
- 17               (a) be in the approved form; and
- 18               (b) include each required term; and
- 19               (c) not include any prohibited term; and
- 20               (d) comply with any other prescribed requirements;  
21               and
- 22               (e) otherwise be in the terms, consistent with this  
23               Act, that are —
- 24                   (i) agreed between the administering body  
25                   and resident; or
- 26                   (ii) determined by the Tribunal.
- 27           (3) The administering body or resident may apply to the  
28           Tribunal for, and the Tribunal may make, an order  
29           determining terms of the contract.

**Division 4 — Miscellaneous**

**37. Valuations — exit entitlements and buybacks**

- (1) For the purposes of sections 29(4) and 34(3), an exit entitlement, or the value of residential premises in a retirement village, is —
- (a) the exit entitlement, or value, agreed between the administering body and the resident; or
  - (b) if the administering body and the resident cannot, within the prescribed time, agree — the exit entitlement, or value, determined by a licensed valuer (as defined in the *Land Valuers Licensing Act 1978* section 4) who meets the requirements of this section.
- (2) The licensed valuer —
- (a) must have appropriate experience or expertise; and
  - (b) must not have a pecuniary or other interest that could be reasonably regarded as capable of affecting the licensed valuer's ability to determine, in good faith, the exit entitlement or value of the residential premises.
- (3) The licensed valuer must be appointed by —
- (a) agreement between the administering body and the resident; or
  - (b) if the administering body and the resident cannot, within the prescribed time, agree — by the Commissioner.
- (4) The administering body or the resident may apply to the Tribunal for a review of a decision by the Commissioner to appoint a licensed valuer.
- (5) The regulations may make provision in relation to valuations for the purposes of this section.

**38. Extensions — exit entitlements and buybacks**

- (1) The Commissioner may, on application made by an administering body in the approved form and within the prescribed time, extend, by up to 12 months, the period within which the administering body would otherwise have to comply with —
- (a) the requirement to pay an exit entitlement in relation to a particular resident under Division 2; or
  - (b) the requirement to enter into a contract for, and complete, the purchase of residential premises in relation to a particular resident under Division 3.
- (2) The Commissioner must, when granting an extension, specify the later date by which the administering body must comply with the requirement.
- (3) The administering body must comply with the requirement by the specified date.  
Penalty for this subsection: a fine of \$20 000.
- (4) The Commissioner may only grant an administering body an extension if the Commissioner —
- (a) has not previously granted the administering body an extension in respect of the requirement in relation to the particular resident; and
  - (b) is satisfied that exceptional circumstances make it unreasonable for the administering body to have to comply with the requirement.
- (5) Without limiting the matters the Commissioner may consider in deciding whether to grant an extension, the Commissioner must consider the following —
- (a) the administering body's financial capacity to comply with the requirement;

- 1 (b) the impact, including the financial impact, of  
2 granting the extension on residents of the  
3 retirement village (and, for a resident who has  
4 died, on the beneficiaries of the resident's  
5 estate);
- 6 (c) whether the administering body or relevant  
7 resident has unreasonably delayed —
- 8 (i) the entry into occupation of the relevant  
9 premises by the next resident; or
- 10 (ii) the sale of the premises;
- 11 (d) submissions, if any, made to the Commissioner  
12 by the administering body or the relevant  
13 resident;
- 14 (e) any other prescribed matter.
- 15 (4) The administering body or the relevant resident may  
16 apply to the Tribunal for a review of a decision by the  
17 Commissioner to grant, or not to grant, an extension.

18 **39. Exemptions — exit entitlements and buybacks**

- 19 (1) The Commissioner may, on application made by an  
20 administering body in the approved form, exempt, for  
21 up to 5 years, the administering body from —
- 22 (a) any requirement to pay an exit entitlement  
23 under Division 2; or
- 24 (b) any requirement to enter into a contract for, and  
25 complete, the purchase of residential premises  
26 under Division 3.
- 27 (2) The Commissioner must, when granting an exemption,  
28 specify later dates by which the administering body  
29 must comply with any requirements that would  
30 otherwise apply, or have applied, during the period of  
31 the exemption.

**s. 23**

---

- 1 (3) The administering body must comply with the  
2 requirements by the specified dates.  
3 Penalty for this subsection: a fine of \$20 000.
- 4 (4) The Commissioner may only grant an administering  
5 body an exemption if the Commissioner is satisfied  
6 that the exemption is in the public interest.
- 7 (5) Without limiting the matters the Commissioner may  
8 consider in deciding whether to grant an exemption, the  
9 Commissioner must consider the following —
- 10 (a) the number of residential premises in the  
11 village;
- 12 (b) the nature of the residents' interest in the land  
13 of the village (for example, as owners or  
14 lessees);
- 15 (c) whether any amount is payable to the  
16 administering body on, and the degree of a  
17 resident's control over —
- 18 (i) the entry into occupation of the relevant  
19 premises by the next resident; or
- 20 (ii) the sale of premises;
- 21 (d) whether a resident is required to reinstate or  
22 renovate residential premises;
- 23 (e) whether the administering body makes a profit  
24 from fees or charges payable by residents;
- 25 (f) whether the administering body's assets and  
26 ability to generate income are likely to be  
27 sufficient to comply with the requirement;
- 28 (g) submissions, if any, made to the Commissioner  
29 by the administering body or residents;
- 30 (h) any other prescribed matter.

- 1           (6) An exemption —
- 2               (a) may be unconditional or subject to conditions;
- 3               and
- 4               (b) may be revoked by the Commissioner on the
- 5               grounds that any condition to which the
- 6               exemption is subject has not been complied
- 7               with.
- 8           (7) An administering body must comply with any
- 9               condition of an exemption.
- 10           Penalty for this subsection: a fine of \$20 000.
- 11           (8) The administering body or a resident may apply to the
- 12               Tribunal for a review of a decision by the
- 13               Commissioner to grant or revoke, or not to grant or
- 14               revoke, an exemption.
- 15       **40. Resident's remedies for contraventions of Part**
- 16           (1) A resident may apply to the State Administrative
- 17               Tribunal for, and the Tribunal may make, an order
- 18               requiring an administering body to comply with any
- 19               requirement in this Part.
- 20           (2) The Tribunal's power to make the order is not affected
- 21               by —
- 22               (a) the commencement of proceedings against the
- 23               administering body for an offence under this
- 24               Part; or
- 25               (b) the conviction of the administering body in
- 26               proceedings for the offence.

## **Part 3B — Capital items**

### **41. Terms used**

In this Part —

***capital item*** —

(a) includes —

- (i) any building or structure in a retirement village; and
- (ii) any plant, machinery or equipment used in the administration, management or operation of the village; and
- (iii) any part of the infrastructure of the village;

but

(b) does not include anything that is —

- (i) owned by a resident; or
- (ii) common property as defined by the *Community Titles Act 2018* section 3(1) or the *Strata Titles Act 1985* section 3(1); or
- (iii) provided for the exclusive use of a resident and required under a residence contract to be maintained, repaired or replaced by the resident;

***capital maintenance*** —

- (a) means works carried out for the purpose of repairing or maintaining a capital item; but
- (b) does not include routine servicing;

***capital replacement*** —

- (a) means works carried out for the purpose of replacing a capital item with another of like nature and quality; but

(b) does not include —

(i) capital maintenance; or

(ii) routine servicing;

***routine servicing*** means routine servicing and repair carried out frequently, or at regular intervals, and at low cost.

**41A. Capital items generally**

(1) The administering body of a retirement village must maintain each capital item in the village in a reasonable condition having regard to the following —

(a) the age of the item;

(b) the prospective life of the item;

(c) the money paid to the administering body by the residents under residence contracts and service contracts (including ingoing contributions).

Penalty for this subsection: a fine of \$20 000.

(2) The administering body may replace a capital item if it is not practical to maintain it.

(3) The administering body must carry out capital maintenance, or capital replacement, in relation to a capital item within a reasonable time after becoming aware of the need for the capital maintenance or capital replacement.

Penalty for this subsection: a fine of \$20 000.

(4) A resident must notify the administering body of the need for capital maintenance, or capital replacement, in relation to a capital item in the resident's residential premises as soon as the resident becomes aware of the need for the capital maintenance or capital replacement.

**41B. Plans for capital maintenance and capital replacement**

- (1) The administering body of a retirement village must, in accordance with the regulations, prepare, and keep up to date, a plan for capital maintenance and capital replacement.

Penalty for this subsection: a fine of \$20 000.

- (2) The regulations may make provision about plans for capital maintenance and capital replacement.

- (3) Without limiting subsection (2), the regulations may make provision about the following —

(a) the preparation, content, duration and revision of plans for capital maintenance and capital replacement;

(b) notifying, or consulting or engaging with, residents about the matters referred to in paragraph (a);

(c) the information to be recorded in plans for capital maintenance and capital replacement, including information concerning any of the following —

(i) the costs associated with capital maintenance or capital replacement;

(ii) the reasons for decreases or increases in costs associated with capital maintenance or capital replacement;

(iii) the frequency with which costs are incurred in respect of capital items;

(d) the capital items for which a plan for capital maintenance and capital replacement must be prepared.

1           (4) Without limiting subsection (2), the regulations may  
2           provide for a plan under either of the following to be  
3           taken to be a plan for capital maintenance and capital  
4           replacement —

5                   (a) the *Community Titles Act 2018* section 85(2);

6                   (b) the *Strata Titles Act 1985* section 100(2A).

7           **41C. Capital maintenance**

8           (1) The administering body of a retirement village must  
9           maintain a fund for capital maintenance (the  
10           ***mandatory capital maintenance fund***).

11           Penalty for this subsection: a fine of \$20 000.

12           (2) The administering body must ensure the mandatory  
13           capital maintenance fund is held —

14                   (a) in an account with an authorised deposit-taking  
15                   institution; or

16                   (b) as otherwise prescribed.

17           Penalty for this subsection: a fine of \$20 000.

18           (3) The administering body must not —

19                   (a) pay for capital maintenance otherwise than  
20                   from the mandatory capital maintenance fund;  
21                   or

22                   (b) use money from the mandatory capital  
23                   maintenance fund otherwise than to pay for  
24                   capital maintenance.

25           Penalty for this subsection: a fine of \$20 000.

**41D. Capital replacement**

The administering body of a retirement village must not —

- (a) use, or set aside, any amount of recurrent charges paid by a resident to pay for capital replacement; or
- (b) impose a levy to pay for capital replacement.

Penalty: a fine of \$20 000.

**Part 3C — Residents' participation**

**41E. Residents' meetings**

- (1) The regulations may make provision about meetings of the residents of a retirement village.
- (2) Without limiting subsection (1), the regulations may make provision about the following —
  - (a) the functions of meetings, including the conferral of functions on meetings;
  - (b) when meetings may or must be held;
  - (c) notice of meetings;
  - (d) meeting procedures, including quorum requirements;
  - (e) attendance and voting at meetings, including —
    - (i) entitlement to attend or vote at meetings; and
    - (ii) procedures for voting; and
    - (iii) proxies and remote attendance;
  - (f) matters or requirements in relation to special resolutions.

**41F. Special resolutions**

- (1) To pass a special resolution at a meeting of the residents of a retirement village subsections (2) and (3) must be complied with.
- (2) Firstly, there must be a quorum present (whether in person or by remote communication or by proxy) of —
  - (a) if the retirement village has fewer than 10 occupied residential premises — a majority of residents entitled to vote on the resolution; or
  - (b) otherwise, the greater of the following —
    - (i) 5 residents entitled to vote;
    - (ii) 30% of the number of residents entitled to vote.
- (3) Secondly, the resolution must be carried by at least 75% of the number of residents who —
  - (a) are present (whether in person or by remote communication or by proxy); and
  - (b) are entitled to vote; and
  - (c) vote on the resolution.

**41G. Residents' committee**

- (1) The residents of a retirement village may establish a residents' committee whose function is to consult with the administering body on behalf of the residents about —
  - (a) the day-to-day running of the retirement village; and
  - (b) any issues or proposals raised by the residents.
- (2) A residents' committee may be established by an election conducted among the residents of a retirement village.

**s. 23**

---

- 1 (3) In the absence of an election conducted under  
2 subsection (2), a residents' committee may be  
3 established by an election conducted by the  
4 administering body on the request of —
- 5 (a) if the retirement village has fewer than 10  
6 occupied residential premises — residents from  
7 a majority of the occupied residential premises;  
8 or
- 9 (b) otherwise, the greater of the following —
- 10 (i) a minimum of 5 residents;
- 11 (ii) a minimum of 10% of the residents.
- 12 (4) Only 1 residents' committee may be established in a  
13 retirement village at any time.
- 14 (5) Membership of a residents' committee is available only  
15 to the residents of the retirement village in which it is  
16 established.
- 17 (6) A residents' committee may be, but is not required to  
18 be, an association incorporated under the *Associations*  
19 *Incorporation Act 2015*.
- 20 (7) If more than 1 body or committee, regardless of its  
21 name, purports to be the residents' committee in a  
22 particular retirement village, the administering body or  
23 a resident of the village, or the Commissioner, may  
24 apply to the Tribunal for, and the Tribunal may make,  
25 an order determining which body or committee, if any,  
26 is the residents' committee for the village.
- 27 (8) A member of the residents' committee —
- 28 (a) holds office for not more than 1 year, but may  
29 be re-elected; and
- 30 (b) may be removed at any time by a special  
31 resolution.

- 1           (9) Subject to the regulations, the residents' committee  
2           may —  
3               (a) decide its own procedures; and  
4               (b) form subcommittees and decide a  
5               subcommittee's procedures.
- 6           (10) The regulations may make provision about residents'  
7           committees, including the election, functions and  
8           procedures of residents' committees and  
9           sub-committees.

11 **24. Section 42 replaced**

12 Delete section 42 and insert:  
13

14 **42. Dispute resolution otherwise than by Tribunal**

- 15           (1) The regulations may make provision about the  
16           resolution of disputes —  
17               (a) between a resident and the administering body  
18               of a retirement village; or  
19               (b) between residents of a retirement village.
- 20           (2) Without limiting subsection (1), the regulations may  
21           establish a procedure that may or must be followed to  
22           resolve a dispute.
- 23           (3) The Commissioner may appoint a mediator to resolve a  
24           dispute —  
25               (a) on the Commissioner's own initiative; or  
26               (b) on application by a party to the dispute.
- 27           (4) The regulations may make provision about the  
28           mediation.
- 29           (5) The Commissioner may require a party to a dispute to  
30           attend the mediation.

**s. 25**

---

- 1 (6) A person must comply with the requirement.  
2 Penalty for this subsection: a fine of \$5 000.
- 3 (7) The parties to a dispute must participate in a dispute  
4 resolution procedure, or a mediation, in good faith.  
5

6 **25. Section 57A amended**

7 Delete section 57A(3).

8 **26. Section 77C amended**

9 In section 77C(1)(a) delete “form approved by the  
10 Commissioner” and insert:  
11

12 approved form  
13

14 **27. Sections 78 and 78A inserted**

15 After section 77 insert:  
16

17 **78. Administering bodies to provide Commissioner**  
18 **information for register of retirement villages**

- 19 (1) The administering body of a retirement village must  
20 provide the Commissioner all of the following  
21 information in the approved form —  
22 (a) the name and address of the retirement village;  
23 (b) the number of residential premises in the  
24 retirement village;  
25 (c) the number of the relevant retirement village  
26 memorial;  
27 (d) the retirement village’s current community  
28 arrangements statement under section 14B;  
29 (e) any other prescribed information.

(2) The administering body must provide the information within 14 days of —

- (a) establishment of the retirement village; and
- (b) any change to the information.

Penalty for this subsection: a fine of \$5 000.

**78A. Commissioner to keep and publish register of retirement villages**

(1) The Commissioner must keep a register of the information provided to the Commissioner under section 78.

(2) The Commissioner may —

- (a) determine the form in which the register is kept; and
- (b) publish any information in the register in the manner determined by the Commissioner.

(3) Without limiting subsection (2)(b), the Commissioner may publish, on a website maintained by the Commissioner, community arrangements statements under section 14B that are provided to the Commissioner.

**28. Section 79 amended**

In section 79 delete the Table and insert:

**Table**

s. 6(3)	s. 13(2), (3) and (5)
s. 14A(2)	s. 14B(4) and (5)
s. 14C(3)	s. 14D(1) and (4)

**s. 29**

---

s. 15(1), (4) and (5)	s. 16(1) and (2)
s. 18(2A) and (5)	s. 21A(2) and (7)
s. 25(1)	s. 27(7)
s. 28(2)	s. 29(1) and (3)
s. 30(3)	s. 31(4)
s. 33(1)	s. 38(3)
s. 39(3) and (7)	s. 41A(1) and (3)
s. 41B(1)	s. 41C(1), (2) and (3)
s. 41D	s. 42(6)
s. 75F(2)	s. 75H(3) and (5)
s. 75(6)	s. 78(2)

**29. Section 82 amended**

After section 82(2)(c) insert:

- (d) advertising or marketing of retirement villages;

**30. Schedule 1 Division 3 inserted**

At the end of Schedule 1 insert:

**Division 3 — Provisions relating to *Retirement Villages*  
*Amendment Act 2024***

**6. Term used: amending Act**

In this Division —

***amending Act*** means the *Retirement Villages Amendment Act 2024*.

**7. Transitional regulations**

(1) In this clause —

***publication day***, for regulations made under subclause (2), means the day on which those regulations are published on the WA legislation website;

***specified*** means specified or described in regulations made under subclause (2);

***transitional matter*** —

(a) means a matter that needs to be dealt with for the purpose of effecting the transition required because of the amending Act; and

(b) includes a saving or application matter.

(2) If there is no sufficient provision in this Part for dealing with a transitional matter, the Governor may make regulations prescribing matters —

(a) required to be prescribed for the purpose of dealing with the transitional matter; or

(b) necessary or convenient to be prescribed for the purpose of dealing with the transitional matter.

(3) Regulations made under subclause (2) may provide that specified provisions of this Act —

(a) do not apply to or in relation to a specified matter; or

(b) apply with specified modifications to or in relation to a specified matter.

**s. 30**

---

- 1 (4) If regulations made under subclause (2) provide that a  
2 specified state of affairs is taken to have existed, or not to  
3 have existed, on and after a day that is earlier than  
4 publication day for those regulations but not earlier than the  
5 day on which the relevant provision of this Act came into  
6 operation, the regulations have effect according to their  
7 terms.
- 8 (5) If regulations made under subclause (2) contain a provision  
9 referred to in subclause (4), the provision does not operate  
10 so as to —
- 11 (a) affect in a manner prejudicial to a person (other  
12 than the State or an authority of the State) the rights  
13 of that person existing before publication day for  
14 those regulations; or
- 15 (b) impose liabilities on a person (other than the State  
16 or an authority of the State) in respect of an act  
17 done or omission made before publication day for  
18 those regulations.
- 19 **8. Inserted provisions, and regulations under them, extend**  
20 **to existing arrangements**
- 21 (1) Section 6(2) does not have effect in relation to a provision  
22 of this Act that is inserted by the amending Act (an *inserted*  
23 *provision*).
- 24 (2) Accordingly, an inserted provision extends to a retirement  
25 village, or a contract, agreement, scheme or arrangement,  
26 that was in existence before that provision comes into  
27 operation.
- 28 (3) Regulations made under an inserted provision extend to a  
29 retirement village, or a contract, agreement, scheme or  
30 arrangement, that was in existence before the regulations  
31 come into operation.
- 32 (4) This clause applies except to the extent that the regulations  
33 provide otherwise.
- 34 (5) Clauses 9 to 13 do not limit this clause.

**9. Amendment of memorials**

Section 15A extends to —

- (a) land used for a retirement village before section 14 of the amending Act comes into operation; and
- (b) a memorial registered before section 14 of the amending Act comes into operation.

**10. Exit entitlements and buybacks**

- (1) Part 3A extends to a resident who, immediately before section 23 of the amending Act comes into operation, had permanently vacated residential premises in a retirement village.
- (2) In such a case, the administering body, within 12 months of section 23 of the amending Act coming into operation, must (as the case requires) —
  - (a) pay any exit entitlement in relation to the resident under Part 3A Division 2; or
  - (b) enter into a contract for, and complete, the purchase of residential premises in relation to the resident under Part 3A Division 3.
- (3) Subclause (2) is subject to any extension or exemption granted to the administering body under Part 3A.

**11. Capital items**

- (1) Part 3B extends to retirement villages, administering bodies and capital items that were in existence before section 23 of the amending Act comes into operation.
- (2) If, immediately before section 23 of the amending Act comes into operation, an administering body maintained a fund solely for the purposes of capital maintenance —
  - (a) that fund is taken to be a mandatory capital maintenance fund; and
  - (b) section 41C extends to the fund.

**s. 31**

---

**12. Residents' committees**

Section 41G extends to a residents' committee established before section 23 of the amending Act comes into operation.

**13. Provision of information to Commissioner**

An administering body must provide the Commissioner the information referred to in section 78 within 14 days of the Commissioner approving a form for the provision of the information.

**14. Amendments do not affect existing proceedings**

Despite the other provisions of this Division, an amendment made to this Act by the amending Act does not apply to proceedings, including criminal proceedings, that were instituted, but not finally determined, before the amendment comes into operation.

**31. Various penalties amended**

Amend the provisions listed in the Table as set out in the Table.

**Table**

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 6(3)	Penalty:	Penalty for this subsection: a fine of
s. 11A(1)	Penalty:	Penalty for this subsection: a fine of
s. 13(2)	Penalty:	Penalty for this subsection: a fine of
s. 13(3)	Penalty:	Penalty for this subsection: a fine of
s. 13(4A)	Penalty:	Penalty for this subsection:
s. 13(5)	Penalty:	Penalty for this subsection: a fine of
s. 14A(2)	Penalty:	Penalty for this subsection:

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 15(1)	Penalty:	Penalty for this subsection: a fine of
s. 15(4)	Penalty:	Penalty for this subsection: a fine of
s. 15(5)	Penalty:	Penalty for this subsection: a fine of
s. 16(1)	Penalty:	Penalty for this subsection: a fine of
s. 16(2)	Penalty:	Penalty for this subsection: a fine of
s. 25(1)	Penalty:	Penalty for this subsection:
s. 66(1)	Penalty:	Penalty for this subsection: a fine of
s. 75F(2)	Penalty:	Penalty for this subsection:
s. 75H(3)	Penalty:	Penalty for this subsection:
s. 75H(5)	Penalty:	Penalty for this subsection:
s. 75(6)	Penalty:	Penalty for this subsection: a fine of
s. 76(2)	Penalty:	Penalty for this subsection:
s. 76(4)	Penalty:	Penalty for this subsection:
s. 77B(3)	Penalty:	Penalty for this subsection:
s. 77C(5)	Penalty:	Penalty for this subsection:
Sch 1 cl. 4(5)	Penalty:	Penalty for this subclause:

1 **Part 3 — *Duties Act 2008* amended**

2 **32. Act amended**

3 This Part amends the *Duties Act 2008*.

4 **33. Section 112 amended**

5 After section 112(5) insert:

6  
7 (5A) Duty is not chargeable on a transaction required by the  
8 *Retirement Villages Act 1992* Part 3A Division 3.  
9

=====