

Retirement Villages Amendment Bill 2004

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Retirement Villages Act 1999* (the **principal Act**) as follows:

- (a) to provide for the circumstances in which the statement of approved expenditure in relation to a retirement village may be amended in order to authorise further expenditure,
- (b) to make it clear that any liability to pay recurrent charges for personal services (except for those already provided) ceases, in the case of a resident who has moved out or died, when the resident moves out or when the operator of the retirement village is notified of the resident's death,
- (c) to clarify the operation of the principal Act in relation to the assignment of residence contracts and the rights of residents or former occupants to sublet premises,
- (d) to bring forward the due date for the review of the principal Act,
- (e) to make other miscellaneous amendments of a minor or machinery nature.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on assent.

Clause 3 is a formal provision that gives effect to the amendments to the *Retirement Villages Act 1999* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] and [10] will ensure that a former resident owner of premises in a retirement village (or the estate of such a person) may let or sublet the premises without first having to hand back possession of the premises to the village operator.

Schedule 1 [3] substitutes section 117 of the principal Act to provide that, if the residents of a retirement village do not consent to the statement of approved expenditure (ie the village budget) being amended by the operator, the operator may apply to the Consumer, Trader and Tenancy Tribunal for an order approving the proposed amendment. The Tribunal may, in the case of an amendment that relates to further expenditure, approve the amendment only if there is an urgent need for the further expenditure and the expenditure was not reasonably foreseeable when the statement of approved expenditure was initially approved. **Schedule 1 [2]** is a consequential amendment.

Schedule 1 [4] and [5] will ensure that an assignable lease does not terminate when the resident dies or moves out but rather is assigned to the incoming resident.

Schedule 1 [6] and [7] make it clear that the extended meaning of **owner** for the purposes of Part 10 of the principal Act (which deals with the vacation of premises) will cover a resident (or former occupant) whose residence contract is subject to a registered long-term lease (ie a lease that has a term of at least 50 years or is for the life of the lessee) and which includes a provision that entitles the resident or former occupant to at least 50% of any capital gains in respect of the premises.

Schedule 1 [8] provides that the liability to pay recurrent charges for personal services provided by the operator of a retirement village (such as meals, cleaning and laundry services) ceases, in the case of a resident who has moved out or died, as from the date the resident moved out or as from the date on which the operator

is notified of the resident's death. **Schedule 1 [9]** is a consequential amendment. **Schedule 1 [11]** provides for the review of the principal Act (which is currently due to be undertaken as soon as possible after 3 December 2004) to be brought forward to as soon as possible after the date of assent to the proposed Act. **Schedule 1 [12]** enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.