

Draft Retirement Villages (Miscellaneous) Amendment Regulations 2025

Consultation paper

Office for Ageing Well

April 2025





Contents

1	Background	2
2	How to provide feedback	3
2.1	Considerations when providing feedback	3
2.2	Previous consultation	4
3	Consultation topics	4
3.1	Before moving into a village	4
3.2	Living in a retirement village	7
3.3	Leaving a retirement village	10
3.4	Other matters	13
3.5	Information on the Register	16
3.6	Any other feedback	17
3.7	Summary of consultation questions	18

This consultation paper provides information on the proposed draft *Retirement Villages (Miscellaneous) Amendment Regulations 2025* which are released for public consultation and feedback.

These regulations propose to amend the *Retirement Villages Regulations 2017* to support the operation of recent amendments to the *Retirement Villages Act 2016* made by the *Retirement Villages (Miscellaneous) Amendment Act 2024*.

1 Background

Parliament passed the *Retirement Villages (Miscellaneous) Amendment Act 2024* (Amendment Act) on 27 November 2024 following comprehensive public consultation.

The Amendment Act updates the *Retirement Villages Act 2016* (RV Act) to give effect to recommendations of an independent statutory review of the RV Act and to provide greater consumer protections for residents and prospective residents of retirement villages.

It also mandates greater contract transparency, strengthens standards applying to retirement village operators and village staff, and strengthens the powers and functions of the Registrar.

Before these important changes can commence, amendments to the *Retirement Village Regulations 2017* (RV Regulations) are required to support the operation of the new laws.

The Department of Human Services is now seeking community feedback on the draft *Retirement Villages (Miscellaneous) Amendment Regulations* (draft amendment regulations).

Your feedback will help finalise the amendment regulations. Once the regulations are finalised, a commencement date for the Amendment Act and amendment regulations will be set. It is expected that this will be in early 2026.

2 How to provide feedback

To provide feedback:

- Go to **yoursay.sa.gov.au/rvactdraftregulations** to download a copy of the draft amendment regulations, survey questions and this consultation paper.
- Follow the link on YourSAy to complete the online survey and provide feedback.
- Provide your feedback by email to **RVActReview@sa.gov.au**.
Post to: Retirement Villages Review, Office for Ageing Well,
PO Box 196, Rundle Mall, Adelaide SA 5000

Consultation closes Sunday 11 May 2025 at 5:00pm.

2.1 Considerations when providing feedback

Feedback is invited on the specific survey questions posed in part 3 of this consultation paper. You may also provide feedback on any other relevant matter.

When providing feedback, it is important to consider the scope of the regulation making powers and what regulations can and can't do.

Regulations can support the RV Act by providing additional guidance on how certain parts of the Act are to be interpreted, and by establishing further requirements, functions and powers related to the Act (where there is a regulation making power).

Regulations must be consistent with the RV Act. They cannot introduce new issues and topics outside the scope of the Act or re-examine matters that were considered and addressed during the development and passage of the Amendment Act.

When providing your feedback, please indicate if you would like your feedback to be treated as confidential, in full or part, and the reason(s) why it should not be made publicly available. You can do this by completing the survey question or stating this on the front of your submission. Under the *Freedom of Information Act 1991*, the Government of South Australia may also be required by law to release your submission to a third party. If a request is made under the Act, you will be contacted prior to the release of any material.

2.2 Previous consultation

During 2021, PEG Consulting conducted an independent statutory review of the operation of the *Retirement Villages Act 2016* and its regulations.

During 2023, the Department for Health and Wellbeing released a consultation draft Retirement Villages (Miscellaneous) Amendment Bill for public consultation.

Following public consultation, updates were made to the Amendment Bill before consideration by Parliament.

3 Consultation topics

3.1 Before moving into a village

3.1.1 Residence contract

Draft regulation 4 will amend regulation 5 of the existing RV Regulations – Residence contracts.

Regulation 5 of the RV Regulations prescribes mandatory information that must be included in each residence contract.

This information is in addition to the mandatory information prescribed by section 20 of the RV Act (as substituted by the Amendment Act).

The amendment regulations will update Regulation 5 to:

- clarify that the requirements under sub regulations 5(2)(e) and (f) that the operator provide details of services and facilities available to residents in the residence contract, only relates to services and facilities provided or arranged by the operator. This gives effect to recommendation 20 of the independent statutory review of the Act.
- reflect updates that have been made to section 20 by the Amendment Act.

These are clarifying amendments and will not introduce any new obligations for residents or operators.

Question 1

Do the proposed updates to regulation 5 of the RV Regulations include all the additional information that should be included in a residence contract? If not, what additional mandatory information should be included?

3.1.2 Disclosure statement

Draft regulation 18 will substitute schedule 2 of the existing RV Regulations – Disclosure statement form.

Schedule 2 of the current RV Regulations sets out the required form for each disclosure statement and the information that must be included in the statement.

The amendment regulations will substitute existing schedule 2 of the RV Regulations and introduce a new disclosure statement form. The new form will retain all of the information requirements in the current form and introduce the following new information requirements:

- when an exit entitlement is payable
- the estimated exit entitlements and exit fees payable under the residence contract if the contract is terminated at 2 years, 5 years and 10 years
- the manner of calculation of the estimated entitlements and fees
- a statement that the estimated exit entitlements and exit fees are estimates only and are subject to change depending on circumstances prevailing at the relevant time in the future, such as the amount of a new ingoing contribution
- information about village composition
- any special levy in place and payable by residents of the retirement village; and
- any major capital item expenditure project in place or planned for the next two years.

Question 2

Do the proposed updates to schedule 2 include all additional information that should be included in the disclosure statement? If not, what additional mandatory information should be included?

3.1.3 Premises condition report and vacated premises report

Draft regulation 5 will insert new regulations 6B and 6C into the existing RV Regulations – Premises condition report and vacated premises report.

New section 23 of the RV Act sets out requirements relating to the premises condition report. The report must be completed by the operator prior to the incoming resident taking occupation of the residence and the incoming resident must then complete the report within 10 business days.

Regulation 16 of the existing RV Regulations sets out the requirements for the vacated premises report.

The amendment regulations will update the RV Regulations to introduce new regulations 6B and 6C. These new regulations will replace current regulation 16.

These amendments will outline the minimum requirements for the premises condition report and vacated premises report, including that the reports must:

- clearly identify the residence that is the subject of the report
- be provided in writing and be printed in not less than 12-point font
- be provided in electronic or hard copy
- include provision for the person entering or exiting occupation of the residence to agree or disagree with the information completed by the operator
- make provision for the inclusion of any subsequent agreement signed by the operator and the person entering into occupation of the residence in the event that there is disagreement about the initial report
- be signed by, or on behalf of the operator and the resident (unless it is not reasonably practicable to do so)
- include information that disputes relating to the completion of a premises condition report and vacated premises report must be resolved in accordance with the village dispute resolution policy (unless the resident agrees to another approach).

In addition, the premises condition report must include information about:

- who is responsible under the residence contract at the end of the contract for reinstating the residence to the same condition as when the resident first entered into occupation;
- who is responsible under the residence contract at the end of the contract for any work to improve the residence in excess of that required to reinstate the premises to the condition it was in when the resident first entered into occupation;
- if the operator is to undertake improvements or repairs to the residence, a description of the work to be undertaken and an estimated completion date.

The operator must retain a copy of the completed premises condition report once received pursuant to section 23(3) and, upon request, provide a copy of the completed report to the resident within 10 business days.

The draft amendment regulations do not prescribe the form these reports must take, as all retirement villages are different, and it is not possible to prescribe a single form that adequately addresses all village types. Instead, an example form or forms will be developed and made available on the Office for Ageing Well Retirement Villages webpage.

Question 3

Are the proposed requirements for the premises condition report and vacated premises report appropriate? Why or why not?

3.2 Living in a retirement village

3.2.1 Codes of Conduct for operators, staff and residents

Draft regulation 18 will substitute schedule 1 of the existing RV Regulations – Codes of Conduct.

Schedule 1 of the RV Regulations provides a Code of Conduct that sets out the minimum standards of behaviour expected by operators and residents of retirement villages.

It is proposed that the current Code of Conduct at schedule 1 is replaced with updated Codes of Conduct that:

- provide separately for residents and retirement village operators and staff
- extend application to retirement village staff
- include guiding principles
- make clear the minimum standards of behaviour that must be adhered to by operators, staff and residents, and
- establish minimum requirements that constitute reasonable consultation with residents.

Breaches of the Code of Conduct by operators or staff are enforceable under the RV Act and regulations.

Once finalised, the updated Codes of Conduct will form the basis of mandatory training that must be completed by operators and relevant staff prior to employment and then every three years.

Question 4

Are the proposed standards of behaviour to be included in the Codes of Conduct adequate? Are there any others that should be included?

3.2.2 Alterations to residence rules

Draft regulation 11 will amend regulation 15 of the existing RV Regulations – Residence rules.

The Amendment Act includes a regulation making power to provide for the alteration of residence rules. Currently, the RV Act is silent on the process for amendment of residence rules.

Regulation 15 will be updated to make clear that if an operator proposes a change to residence rules, they must comply with prescribed consultation requirements.

Regulation 15 will also be updated to establish two pathways for residents to request a change to the residence rules. These are:

- a residents’ committee may request that the operator consider a change to the rules; or
- at least 20% of residents may request that the operator consider a change to the rules.

In both cases, the operator will need to comply with prescribed consultation requirements.

Question 5

Are the proposed requirements for suggesting changes to residence rules appropriate and accessible?

3.2.3 Dispute resolution policy

Draft regulation 15 will amend regulation 18 of the existing RV Regulations – Dispute resolution policy.

Draft regulation 5 will insert new regulation 6A into the existing RV Regulations – Information to be provided before residence contract entered into.

Operators and residents often lack clarity on how to manage disputes between residents. Some residents have also raised that the process in their village for making a formal complaint to the operator is not clear.

The amendment regulations propose to update regulation 18 of the RV Regulations to require that a village dispute resolution policy must include:

- the manner in which a resident may resolve a dispute with another resident and the circumstances in which the operator may provide assistance, and
- the process for a resident to make a formal complaint to the operator.

The amendments will also require that an operator provide the village Dispute Resolution Policy to a prospective resident before the residence contract is entered into (rather than it forming part of the contract). It is more appropriate for this document to be provided to the prospective resident as a document under section 22, along with other relevant policy documents (such as the surplus and deficit policy, remarketing policy etc).

Question 6

Are the proposed updates to the Dispute Resolution Policy appropriate? If not, why not?

3.2.4 Residents' committees

Draft regulation 10 will update regulation 12 of the existing RV Regulations – Residents' committees.

It is proposed that regulation 12 will be updated to clarify that the requirement of a Residents' Committee to provide an operator with minutes after a meeting of the committee applies to every meeting convened by the Residents' Committee. This is a clarifying amendment and responds to recommendation 34 of the independent statutory review of the Act.

3.3 Leaving a retirement village

3.3.1 Remarketing policy

Draft regulation 13 will amend regulation 17 of the existing RV Regulations – Remarketing policy.

Section 22 of the RV Act requires that the operator provide a prospective resident with a copy of the village remarketing policy. Regulation 17 of the RV Regulations includes the matters that must be included in an operator’s remarketing policy.

The amendment regulations will update regulation 17 to:

- make clear that an operator can have different provision according to the classes of residences, or the matters or circumstances, to which it is expressed to apply (consistent with recommendation 52 of the independent statutory review of the Act)
- provide that the policy may specify provisions of the policy that do not apply in certain circumstances (such as where payment of the exit entitlement is not contingent on the sale of the right to live in the residence)
- clarify that it also applies to the ‘sale of a resident’s right to reside in a residence’ to make clear that a prospective resident is generally not purchasing the property itself.

Question 7

Are the proposed updates to regulation 17 clear? Do they address the matters that must be included in an operator’s remarketing policy? If not, what other matters should be included?

3.3.2 Exit entitlement

Draft regulation 6 will amend regulation 7 of the existing RV Regulations – Exit entitlements.

Regulation 7 will also be updated to reflect changes to exit entitlement requirements made by the Amendment Act (such as the introduction of a 12-month maximum repayment period reduced from the prescribed period of 18 months).

These updates are necessary to be consistent with the amendments made to the RV Act. They will not have a substantive impact on residents or operators.

3.3.3 Payee details

Draft regulation 14 will insert new regulation 17A into the existing RV Regulations – Provision of payee details.

The Amendment Act updates sections 24 and 27 of the RV Act to clarify that a resident who is entitled to a payment or refund under these sections must, at the request of the operator, provide their payee details to the operator in accordance with any requirements specified in the regulations.

The amendment regulations specify that the provision of payee details must be provided in writing and include:

- the resident's name, residential address and contact details; and
- all necessary banking information for the operator to make the payment to the resident (such as the account name, account number and BSB number for the account into which payment will be made); and
- any other information reasonably required by the operator to enable the payment to be made.

Question 8

Are the proposed payee details adequate to enable payment to be made in a timely and secure manner?

3.3.4 Unclaimed property

Draft regulation 16 will insert new regulation 19E of the existing RV Regulations – Unclaimed property.

The Amendment Act includes a regulation making power to set out a process for managing unclaimed property once a resident vacates a residence. This process will provide an alternative to the *Unclaimed Goods Act*; the operator may elect to use the process set out in the *Unclaimed Goods Act* if they wish.

The amendment regulations will require that an operator must prepare an unclaimed property procedure and inform all residents of the procedure.

The amendment regulations will also establish minimum requirements for an operator when managing unclaimed property in accordance with the Act. This includes:

- The operator must securely store the property and, by notice in writing to the former resident, request that the property be collected.
- If an item of property (other than a personal document) has not been collected after 30 days following the request, the operator may:
 - *sell the item, or*
 - *for items reasonably valued at less than \$100 give the item to a charitable organisation or otherwise dispose of it.*
- Proceeds of any items sold must be paid to the former resident (less any reasonable costs incurred).
- If a personal document has not been collected after 30 days following a request, the operator must forward the document to the former resident's forwarding address; or if the operator does not have a forwarding address, return the document to its place of origin (if any) or securely dispose of it.
- The operator may, at any time after recovering vacant possession of a residence, remove from the premises and destroy or dispose of property left at the residence consisting of perishable goods or goods that would be unsafe or unhealthy to store.
- The operator may charge the former resident the reasonable costs incurred in dealing with the uncollected property.

Note: Additions made to the premises by a former resident, or any fixtures they installed, are not unclaimed property and are subject to the terms of the residence contract.

Question 9

Is the proposed process for managing unclaimed property appropriate? Are there any other matters that should be included?

3.4 Other matters

3.4.1 Prescribed safety information

Draft regulation 12 will insert new regulation 16 into the existing RV Regulations – Safety information.

The Amendment Act places a duty on operators to ensure that the common areas of a village are reasonably safe.

The amendment regulations will provide additional details regarding this obligation, including:

- that emergency procedures must be reviewed at least once in each calendar year, or sooner if significant changes are made to the retirement village scheme
- the minimum requirements that must be included in an emergency plan
- how often safety inspections must be conducted
- how prescribed safety information must be displayed
- that prescribed safety information must be:
 - *in plain English and at least 12-point font*
 - *provided in writing to residents within 10 business days of being prepared or updated.*

The amendment regulations also provide that the operator must make documents relating to prescribed safety information available free of charge to village residents within 10 business days of a request being made.

Question 10

Are the proposed requirements relating to the operator's duty to ensure safety adequate? If not, what other requirements could be considered?

3.4.2 Lease of land in a retirement village for commercial or residential purposes

Draft regulation 16 will insert new regulation 19A into the existing RV Regulations – Consent to lease of land in retirement village.

Amendments to the RV Act provide that if an operator proposes to lease a formerly occupied residence in circumstances where the former resident's exit entitlement has not been paid in full, the operator must first obtain the consent of the former resident in accordance with any requirements prescribed by regulation (sections 57 and 57A).

The operator may propose to lease the land for residential purposes (subject to the *Residential Tenancies Act 1995*) or for a commercial purpose related to the functioning of the village.

The amendment regulations propose the following requirements for obtaining consent:

- the operator must provide to the former resident or their representative in writing sufficient information to make an informed decision; and
- the operator must answer in writing any questions the former resident or their representative has; and
- the former resident or their representative must provide their consent in writing.

Question 11

Does the proposed regulation require an operator to provide a former resident with enough information to enable them to provide informed consent to the leasing/renting of the premises prior to them receiving the exit entitlement? If not, what additional information is needed?

3.4.3 Termination of retirement village scheme (or part of)

Draft regulation 16 will insert new regulations 19B and 19C into the existing RV Regulations – Termination of retirement village scheme/part of scheme.

Where an operator proposes to make an application to terminate a retirement village scheme or part of a scheme, the amendments to the RV Act provide that the operator must first provide notice to residents. The regulations may prescribe additional information related to the proposed termination that must be provided to residents along with the notice.

The amendment regulations will provide that this information must include:

1. a map showing the land that is the subject of the proposed termination
2. the reasons for the proposed termination and the proposed future use of the land that will be removed from the retirement village scheme
3. the implementation plan and timing for the proposed termination (including the consultation process and the timing for providing questions and comments)
4. any reasonably foreseeable effects on the residences in the retirement village and village amenity (for individual residents and the village generally)
5. contact details for the purposes of submitting questions, comments or further information requests.

The information set out in dot points 1 – 4 must also be provided to the Minister when an application to terminate part of a village is made under section 59A.

The fee that must accompany an application to the Minister to terminate part of a Retirement village scheme is proposed to be set at \$379.00, which is the same as an application to the Minister for exemption under section 5(2) of the Act. This fee will be set via notice in the Government Gazette.

Question 12

Is the proposed information that must be provided to residents and the Minister relating to a proposed termination sufficient? If not, what other information could be considered?

3.4.4 Disqualified persons

Draft regulation 16 will insert new regulation 19D into the existing RV Regulations – Disqualified persons.

The Amendment Act expands the circumstances in which a person is disqualified from being involved in certain roles or functions at a retirement village.

The amendment regulations will establish the minimum requirements an operator must meet to satisfy themselves that a person is not a disqualified person. These are that the operator must obtain:

- a national criminal history record report that is less than 6 months old with respect to the person and
- a statutory declaration from the person confirming that no prescribed circumstances exist with respect to the person.

Question 13

Is there any other evidence that an operator should require to satisfy themselves that a person is not a disqualified person?

3.5 Information on the Register

The Amendment Act provides that a register of all retirement villages will be made available to the public on a website.

Stage 1 of the online register will contain information about the location, size and operator of each retirement village in South Australia.

As a part of this survey, we are gathering information that may be used in the future for optional fields for operators to provide as a part of the online register. Below are examples of information that could be provided.

- Single/Multi Storey (self-care/independent living, assisted care/serviced apartment)
- Co-located with aged care
- Pets allowed
- Communal facilities (meeting rooms, open spaces, BBQ areas)
- Amenities in village (swimming pool, bowling green, theatre, hairdresser, community centre etc)
- Contract types (licence to occupy, rental, purchase)
- Information about minimum age requirements, dependents etc.

Question 14

What other information would you find useful on the register of retirement villages?

3.6 Any other feedback

This consultation paper seeks feedback on key topics that are covered by the draft regulations.

Question 15

Do you have any other feedback about the draft regulations?



3.7 Summary of consultation questions

Question 1	Do the proposed updates to regulation 5 include all the additional information that should be included in a residence contract? If not, what additional mandatory information should be included?
Question 2	Do the proposed updates to schedule 2 include all additional information that should be included in the disclosure statement? If not, what additional mandatory information should be included?
Question 3	Are the proposed requirements for the premises condition report and vacated premises report appropriate? Why or why not?
Question 4	Are the proposed standards of behaviour to be included in the Code of Conduct adequate? Are there any others that should be included?
Question 5	Are the proposed requirements for suggesting changes to residence rules appropriate and accessible?
Question 6	Are the proposed updates to the Dispute Resolution Policy appropriate? If not, why not?
Question 7	Are the proposed updates to regulation 17 clear? Do they address the matters that must be included in an operator's remarketing policy? If not, what other matters should be included?
Question 8	Are the proposed payee details adequate to enable payment to be made in a timely and secure manner?
Question 9	Is the proposed process for managing unclaimed property appropriate? Are there any other matters that should be included?
Question 10	Are the proposed requirements relating to the operator's duty to ensure safety adequate? If not, what other requirements could be considered?
Question 11	Does the proposed regulation require an operator to provide a former resident with enough information to enable them to provide informed consent to the leasing/renting of the premises prior to them receiving the exit entitlement? If not, what additional information is needed?
Question 12	Is the proposed information that must be provided to residents and the Minister relating to a proposed termination sufficient? If not, what other information could be considered?
Question 13	Is there any other evidence that an operator should require to satisfy themselves that a person is not a disqualified person?
Question 14	What other information would you find useful on the register of retirement villages?
Question 15	Do you have any other feedback about the draft regulations?

Stock images may appear in this publication.
These images are for illustrative purposes only, and people depicted
in these images may not be associated with the publication's subject matter.

