



Housing Legislation (Building Better Futures) Amendment Act 2017 (Qld) – amendments to the *Retirement Villages Act 1999 (Qld)*

The *Housing Legislation (Building Better Futures) Amendment Act 2017 (Qld)* (**Amendment Act**) received royal assent on Friday 10 November 2017.

The Amendment Act amends a range of legislation, including: the *Housing Act 2003*, *Manufactured Homes (Residential Parks) Act 2003*, *Residential Services (Accreditation) Act 2002*, *Residential Tenancies and Rooming Accommodation Act 2008* and *Retirement Villages Act 1999 (RV Act)*.

The Amendment Act includes substantial amendments to the RV Act with the stated objectives of increasing transparency in the relationships between operators and residents and providing greater security and confidence to residents, balanced with industry viability. The amendments are also aimed at addressing resident and consumer advocate concerns raised recently in the media.

A number of sections of the Amendment Act came into force on the date of assent (10 November 2017). Other sections will only commence on a date or dates yet to be proclaimed.

The RV Act amendments made by the Amendment Act may be grouped into the following broad areas:

1. Pre-contractual disclosure, condition reports and content of residence contracts
2. Buy back provisions
3. Reinstatement and renovation
4. Financial matters
5. Behavioural standards
6. Redevelopment of retirement villages
7. Change of scheme operator
8. Closure or winding down of retirement villages
9. Miscellaneous amendments.

A summary of the amendments and relevant commencement dates are set out in the table below.

New section or part of RV Act	Amendment	Commencement
1. Pre-contractual disclosure, condition reports and content of residence contracts		
Pre-contractual disclosure	<p>For new residents, the current public information document (PID) will be replaced with two information documents:</p> <ul style="list-style-type: none"> ▪ a new village comparison document, in an approved form and containing the information prescribed by regulation, giving general information about a scheme to potential residents (which must be published on the scheme's website and given to prospective residents within 7 days of receiving a request) (see new section 74); and ▪ a new prospective costs document, in an approved form and containing the information prescribed by regulation, giving a summary of the estimated costs of moving into, living in and leaving the village (which must be given to prospective residents within 7 days of receiving a request) (see new section 75). <p>Operators must maintain a website, which can relate to more than one scheme (see new section 86A).</p> <p>The definition of a 'public information document' will be omitted in its entirety because the concept of a PID will be removed from the RV Act for the purposes of new residents.</p> <p>For existing residents, the status of current PIDs (and the operation of particular provisions in the RV Act relating to PIDs) will be preserved and continue to operate for current residents. The scheme operator may not amend the current PID in a way that materially impacts on a resident of the retirement village, except to the extent permitted under an approved closure plan or redevelopment plan (see new section 237I).</p>	Date to be fixed by proclamation.
74 Village comparison documents		
75 Prospective costs documents		
86A Scheme website		
237I Continued operation of PIDs and particular former provisions		
84 Relevant information documents to be given to prospective residents	<p>The scheme operator will have to give a prospective resident a copy of:</p> <ul style="list-style-type: none"> ▪ the two information documents ▪ the residence contract ▪ any by-laws for the village ▪ any other document prescribed by regulation, <p>21 days before the operator and the resident enter into the residence contract (see new section 84).</p>	Date to be fixed by proclamation.

New section or part of RV Act	Amendment	Commencement
	<p>The 21 day disclosure period will be able to be waived by the prospective resident. The waiver must be in an approved form, must contain a legal advice certification from a Queensland lawyer about entering into the contract and must be signed by the resident and their lawyer (see new section 84).</p> <p>Note that the 14 day cooling-off period currently in the RV Act continues to apply and is not amended.</p>	
170 Resident may apply for order if scheme operator contravenes particular provisions	Section 170, which gives a resident the right to apply to the tribunal for an order to have the resident's residence contract set aside, will be amended to apply to a contravention by an operator of the new pre-contractual disclosure process in section 84 (see the paragraph above) if the resident is materially prejudiced by the contravention.	Date to be fixed by proclamation.
Condition reports	<p>There will be new requirements for unit condition reports to be prepared in an approved form:</p> <ul style="list-style-type: none"> ▪ an entry condition report is to be prepared by the operator in the presence of the prospective resident or their representative (unless they consent in writing to not being present) and given to a prospective resident <u>before</u> they start occupying the unit (see new section 76); and ▪ an exit condition report is to be prepared by the operator and given to a former resident <u>within 14 days after</u> the resident's right to reside terminates (see new section 77). <p>In both cases, the resident has a right to disagree with the contents of either the entry condition report or the exit condition report by marking on the report and returning it to the operator.</p> <p>Section 221, dealing with evidence in tribunal hearings, will be amended to provide that for the purposes of a tribunal dispute, a copy of a condition report stating the condition of a unit is evidence of the condition of the unit:</p> <ul style="list-style-type: none"> ▪ if the report is signed by the resident - when the report was signed; or ▪ otherwise - when the report was made. <p>However, if the report is signed by the resident and marked to show the resident's disagreement with the report, the report is evidence of the condition of the unit only as far as its contents are unmarked.</p> <p>There is no process specified for resolving a disagreement between the operator and the resident about the recording of a unit's condition in an entry or exit condition report. In the event of an inability to agree, the matter will become a '<i>retirement village dispute</i>' referable to QCAT.</p>	Date to be fixed by proclamation.
76 Condition reports at the start of residency		
77 Condition reports at the end of residency		
221 Evidentiary provisions		

New section or part of RV Act	Amendment	Commencement
<p>Residence contracts</p> <p>45 Form and content of residence contract</p>	<p>Changes will be made to section 45 to prescribe additional mandatory content for residence contracts. Generally, this is content that has traditionally been included in the PID which is to be moved into the residence contract because of the abolition of the PID.</p> <p>Additional required content includes:</p> <ul style="list-style-type: none"> ▪ funds the operator is required to keep; ▪ a description of the percentage of the resident's ingoing contribution that the operator will contribute to the capital replacement fund as a capital replacement fund contribution; ▪ the retirement village facilities; ▪ the retirement village land; and ▪ capital gain and capital loss sharing. <p>The amendments to section 45 also give the ability for regulations to be made that prescribe:</p> <ul style="list-style-type: none"> ▪ additional matters to be included in residence contracts; ▪ mandatory content for residence contracts; ▪ prohibited content for residence contracts; and ▪ an 'approved form' for residence contracts. 	<p>Date to be fixed by proclamation.</p>
2. Buy back provisions		
<p>63 When former resident's exit entitlement payable</p> <p>237M Prescribed period for repayment of exit entitlement</p>	<p>Section 63 is amended to provide for a statutory buy back timeframe of 18 months after the resident's right to reside terminates (ie the termination date) within which a resident must be paid their exit entitlement. There is a limited exception for an operator's undue financial hardship (see new section 171A below).</p> <p>Where the exit entitlement amount depends on the resale price, the current 'agreed resale value' determined under the existing sections 60 and 67 of the RV Act is used.</p> <p>If a resale value has not been agreed with the resident at the time the resident must be paid their exit entitlement under the new section 63, the operator must obtain a valuation of the right to reside which is to be used to calculate the exit entitlement (see new section 67A below).</p>	<p>Commenced on the date of assent, 10 November 2017.</p>

New section or part of RV Act	Amendment	Commencement
	<p>The Amendment Act provides that the 18 month buy back applies to all residence contracts, including those existing at the time the relevant amendments to the RV Act commence. The provision commenced on the date of assent.</p> <p>If a resident's right to reside is terminated before the date the amendments to section 63 commenced, the 18 month buy back will apply as if the termination date in section 63 was a reference to the date the amendments commenced (see section 237M).</p>	
171A Operator may apply for extension of time to pay exit entitlement	Under new section 171A, a scheme operator may apply to the tribunal for an order extending the time for payment of an exit entitlement. The tribunal must be satisfied that:	Commenced on the date of assent, 10 November 2017.
195 Tribunal order under section 171A	<ul style="list-style-type: none"> ▪ the operator is unable to sell the right to reside within the time required by section 63; ▪ the operator is likely to suffer undue financial hardship if the order is not made; and ▪ the order would not be unfair to the former resident (the tribunal can have regard to submissions by the former resident). <p>The tribunal may order the operator to pay the exit entitlement by instalments on stated days (see new section 195).</p>	
67A Updating agreed resale value if exit entitlement is payable before the right to reside is sold	<p>New section 67A applies if the scheme operator is required to pay a former resident their exit entitlement under section 63 and the operator and former resident have not otherwise agreed on the value of the right to reside for the purpose of calculating the exit entitlement.</p> <p>The operator must obtain a valuation of the right to reside from a valuer before, but not more than 14 days before, the day the operator is required to pay the exit entitlement under section 63. The valuation is taken to be the agreed resale value of the right to reside.</p>	Commenced on the date of assent, 10 November 2017.
225 Review of operation of s63(1)(c) [buy back provisions]	<p>New section 225 provides that no later than two years after the commencement of the buy back provisions a review must be undertaken to determine the impact of the provisions on residents, former residents, families of residents or former residents and scheme operators.</p> <p>The Minister must appoint no more than four appropriately qualified persons to conduct the review and must provide the terms of reference to guide the conduct of the review.</p>	Commenced on the date of assent, 10 November 2017.

New section or part of RV Act	Amendment	Commencement
3. Reinstatement and renovation		
56 Interpretation for div 5	The government has introduced what it sees as a ' <i>simpler, more predictable reinstatement process</i> ' that makes a clear distinction between 'reinstatement' and 'renovation' in relation to residents who enter into residence contracts after commencement of the amendments.	Date to be fixed by proclamation.
58 Reinstatement of accommodation unit	For residence contracts in existence at the time the amendments commence, the existing provisions relating to reinstatement will continue to apply.	
59 When reinstatement work must be completed	<p>The concept of 'reinstatement work' will be narrowed for residence contracts entered into after the amendments to the RV Act commence to only include replacements or repairs that are reasonably necessary to reinstate the unit back to the same condition as it was in when the former resident started occupation, except for:</p> <ul style="list-style-type: none"> ▪ fair wear and tear; and ▪ renovations/changes to the unit agreed between the resident and operator while the former resident occupied the unit. <p>The former resident has the obligation (and right) to carry out the reinstatement work at the resident's cost, subject to the right to agree with the operator for the operator to carry out the work. The reinstatement work must be done before the resident leaves their unit. If the former resident fails to do so, the operator may carry out the work and claim the cost from the former resident. The existing process in the RV Act for the operator and the former resident to agree the reinstatement work will be removed. Under that existing process the operator has the obligation (and right) to carry out reinstatement work after the extent of that work, and its cost, is agreed with the former resident.</p> <p>For residence contracts in existence before the commencement of the amendments the existing provisions (sections 58, 59, 61 and 62) relating to reinstatement work will still apply (see section 237K).</p>	
59A Renovation work by scheme operator	<p>The new section 59A will only apply to residents who enter into residence contracts after commencement of the amendments.</p> <p>'Renovation work' is defined as all replacements or repairs other than 'reinstatement' work. This is a new concept in the RV Act.</p> <p>If an operator proposes to carry out renovation work, the operator must:</p>	Date to be fixed by proclamation.

New section or part of RV Act	Amendment	Commencement
	<ul style="list-style-type: none"> agree with the former resident when the work will be finished; and ensure that the work is completed by that date. <p>The new provision does not require the former resident and the operator to agree about the extent and cost of renovation work proposed by the operator. By implication, the operator has a right to elect to undertake renovation work in a former resident's unit to any extent proposed by the operator. The operator only needs to agree with the former resident on a date by which the work will be finished.</p> <p>A dispute about the timing of completion of the work may become a <i>'retirement village dispute'</i> to be referred to QCAT.</p> <p>The costs of 'renovation work' are to be shared in the same proportion as the resident and operator share in the capital gain on re-sale under the residence contract. The amendments do not contemplate coming to a different cost sharing agreement with a former resident, and in particular one that is less favourable to the former resident.</p>	
4. Financial matters		
Capital replacement fund		
18 What is a capital replacement fund contribution	The amendments introduce a range of provisions designed to achieve greater financial transparency in relation to retirement village charges, funds, budgets and financial statements.	Date to be fixed by proclamation.
93 Capital replacement fund budget	<p>The definition of 'capital replacement fund contribution' will be amended to be a percentage of a resident's ingoing contribution described in the resident's residence contract (rather than the PID) as a contribution to the capital replacement fund. This change is a result of the abolition of PIDs (see amended section 18).</p> <p>The CRF budget must be in a new approved form (see section 93).</p>	
General services		
18A What is a general services charge fund	The Amendment Act introduces a definition of 'general services charge' (see new section 18B) and makes minor tidy up amendments throughout the RV Act to refer to 'general services charges' rather than to 'charges for general services'.	Date to be fixed by proclamation.
18B What is a general services charge	The Amendment Act introduces a new requirement for operators to keep a 'general services charge fund' (see new sections 18A and 102AA).	
102AA General services charge fund	The format of the general services charge budget must be in a new approved form (see section 102A).	

New section or part of RV Act	Amendment	Commencement	
102A	General services charge budget		
106	Increasing general services charges	The Amendment Act amends the structure of sections 106 and 107. It will remove the concept of seeking line-by-line approvals from residents in the event that the total general services charge increases above CPI. The approval of the residents by special resolution is required to the entire increase in the total above CPI (except to the extent that the increase is allowed under section 107).	Date to be fixed by proclamation.
107	Allowable increase in total general services charge	<p>The Amendment Act will also correct a drafting error in the RV Act relating to the definition of 'CPI percentage increase'.</p> <p>Existing section 107 will also be amended in relation to the allowable causes of an increase in the total general services charge above CPI, by:</p> <ul style="list-style-type: none"> ▪ removing an increase in the MRF contributions (as MRF contributions are now dealt with separately to general services charges); and ▪ adding the costs of, or additional expense incurred by, a manager appointed by the chief executive under a new section 38 to protect the interests of residents (see below). 	
112A	Explanation of increase in general services charge	The residents committee may request from an operator a written explanation if there is an increase over the budgeted amount of expenditure involved in providing a general service.	Date to be fixed by proclamation.
Maintenance reserve fund			
20	What is maintenance reserve fund contribution	The definition of maintenance reserve fund contribution will be replaced. A contribution to the maintenance reserve fund must be payable under a resident's residence contract (rather than set out in the PID). This change is a result of the abolition of PIDs. Also, the amendment uncouples the MRF contribution from the general services charge (see amended section 20).	Date to be fixed by proclamation.
99	Maintenance reserve fund budget	<p>The MRF budget will need to be:</p> <ul style="list-style-type: none"> ▪ in a new approved form (see section 99(1)(a)); and ▪ consistent with, and implement any recommendations in, the quantity surveyor's report (see section 99(1)(b), which replaces the omitted section 98(4)), except to the extent that any part of the budget has been agreed to by the residents by special resolution at a residents meeting. <p>Section 99(1)(b) will increase the onus on the scheme operator to implement the recommendations in the quantity surveyor's report unless the residents by special resolution have agreed otherwise.</p>	

New section or part of RV Act	Amendment	Commencement
Financial statements		
112 Quarterly financial statements	A resident can request a quarterly financial statement for: <ul style="list-style-type: none"> ▪ 1 or more completed quarters of the current financial year; or 	Date to be fixed by proclamation.
113 Annual financial statements	<ul style="list-style-type: none"> ▪ 1 or more quarters of the last 2 completed financial years. 	
237O Quarterly financial statements	<p>Within 28 days after receiving the request, the operator must give the resident a quarterly financial statement for each relevant quarter that:</p> <ul style="list-style-type: none"> ▪ lists, for the quarter, the income of, and expenditure from the capital replacement fund, the maintenance reserve fund and the general services charges fund; and ▪ has been audited or is in a form that is capable of being audited; and ▪ is in a new approved form (section 112). <p>Section 237O provides a relevant transitional provision for requests under section 112(1).</p> <p>Also, there is a new requirement for the annual financial statements to:</p> <ul style="list-style-type: none"> ▪ include the <u>income</u> of the general services charge fund (as well as the expenditure); and ▪ be in a new approved form (section 113). 	
5. Behavioural standards		
Part 8 – Rights and obligations of scheme operator, residents and others		
134 Purpose and enforceability of part	New enforceable behavioural standards apply for both: <ul style="list-style-type: none"> ▪ operators and their staff in interactions with residents (see new section 135); and ▪ residents in their interactions with other residents and operators (and their staff) (see new section 136). 	Commenced on the date of assent, 10 November 2017.
135 Scheme operator to respect rights of residents	A dispute about the behavioural standards is able to be referred to QCAT as a ' <i>retirement village dispute</i> '.	
136 Residents to respect rights of others	An operator must: <ul style="list-style-type: none"> ▪ not unreasonably interfere with, or allow interference with, the reasonable peace, comfort or privacy of a resident; 	

New section or part of RV Act	Amendment	Commencement
	<ul style="list-style-type: none"> ▪ take reasonable steps to ensure a resident or a resident's guest does not interfere with the reasonable peace, comfort or privacy of another resident; ▪ use the scheme operator's best endeavours to ensure each resident lives in an environment free from harassment and intimidation; ▪ not restrict the right of a resident to autonomy over the resident's personal, financial or other affairs or possessions; ▪ not restrict a resident from exercising self-reliance in matters relating to the resident's personal, domestic or financial affairs; and ▪ within 21 days after receiving a written complaint, proposal or question about the operation of the village ('relevant correspondence') from a resident or former resident, or the representative of a resident or former resident, give the resident, former resident or representative a written complete response to the relevant correspondence (see new section 135). <p>A resident must:</p> <ul style="list-style-type: none"> ▪ not unreasonably interfere, or unreasonably cause or permit interference, with the peace, comfort or privacy of another resident; ▪ respect the rights of the operator and the operator's representatives to work in an environment free from harassment and intimidation; and ▪ not act in a way that adversely affects the occupational health and safety of a person who is working in the retirement village and employed, or otherwise authorised to work in the retirement village, by the operator (see new section 136). 	

6. Redevelopment of retirement villages

Part 5, Division 10 – Redevelopment of retirement villages	<p>This new Part 5, Division 10 (sections 113B to 113J inclusive) will apply if an operator seeks to 'redevelop' an existing village (a 'running redevelopment'), unless every resident of the village was given written notice of the running redevelopment before he or she became a resident (either in a PID or other disclosure under the new section 84(1)) (see section 237I(7)).</p> <p>'Redevelopment' is broadly defined and will include construction or demolition of units, construction or demolition of any building or structure or changing the use of a building or structure.</p>	Date to be fixed by proclamation.
113B Definition for division		
113C Application of division		
113D Requirement to prepare redevelopment plan		

New section or part of RV Act	Amendment	Commencement
113E	Meaning of redevelopment plan	The operator must prepare a proposed redevelopment plan (in an approved form) that provides for a clear, orderly and fair process for the running redevelopment of the village and provide a copy to every resident of the village.
113F	Approval of redevelopment plan	
113G	Revision of approved redevelopment plan	The proposed redevelopment plan must be approved by either the residents by special resolution or by the chief executive (but only if it fails to be approved by a special resolution of residents).
113H	Requirement to implement approved redevelopment plan	If the scheme operator applies to the chief executive to approve the proposed redevelopment plan, before deciding on the application, the chief executive must give notice of the application to each resident, give a copy of the proposed redevelopment plan to any resident who requests it and have regard to correctly provided submissions from residents.
113I	Discontinuing running redevelopment of retirement village	
113J	Application to tribunal for review	<p>Within 90 days of the later of receipt of the proposed redevelopment plan or the day that further requested information is provided by the scheme operator, the chief executive may either approve the proposed redevelopment plan or give the operator a written direction to revise the plan. The chief executive is taken to have approved the proposed redevelopment plan if the chief executive fails to decide the application in the required time period.</p> <p>If the chief executive approves a proposed redevelopment plan, he or she must give written notice to the operator and a QCAT information notice for the decision to each resident. Therefore, a resident is able to apply to the tribunal for review of the chief executive's decision approving a redevelopment plan.</p> <p>Once approved the operator may make an application to the chief executive to revise an approved redevelopment plan. The chief executive may also give a written direction to an operator to revise a redevelopment plan that has previously been approved. Upon approving a revised plan the chief executive must give a QCAT information notice for the decision to each resident.</p> <p>The operator must comply with an approved redevelopment plan or may discontinue implementation of a plan (and give a notice of discontinuance in approved form to the chief executive and each resident). The chief executive can also request the scheme operator to notify them as to how an approved redevelopment plan is being implemented by the operator.</p> <p>A resident or the operator is able to apply to the tribunal for the review of any decision by the chief executive under the new Division 10.</p>

New section or part of RV Act	Amendment	Commencement
7. Change of scheme operator		
Part 2, Division 5 – Change of scheme operator	This new Part 2, Division 5 (sections 41B to 41J inclusive) will apply if an operator proposes to transfer control of a retirement village scheme's operation to another person (for example, by selling or transferring ownership and control of a village).	Date to be fixed by proclamation.
41B Definitions for division		
41C Notice about change of scheme operator	However, the new Part 2, Division 5 does not apply to the transfer of control of a scheme's operation under a contract executed before the commencement of the new Division (see new section 237OA).	
41D Requirement to prepare transition plan	The new process requires the giving of notice to the chief executive of the proposal and preparation by the existing operator of a transition plan (within 28 days of giving notice) in an approved form that provides for a clear, orderly and fair process for transitioning control of the scheme's operation from the existing operator to the new operator.	
41E Meaning of transition plan		
41F Approval of transition plan	Within 90 days of the later of receipt of the proposed transition plan or the day that further requested information is provided by the scheme operator, the chief executive may either approve the proposed transition plan or give the operator a written direction to revise the plan. The scheme operator is able to apply to QCAT for the review of the chief executive's decision to require the proposed transition plan to be revised.	
41G Revision of approved transition plan		
41H Requirement to implement approved transition plan		
41I Discontinuing change of scheme operator	The chief executive is taken to have approved the proposed transition plan if the chief executive fails to decide the application in the prescribed time period.	
41J Effect of change of scheme operator	The chief executive may give a copy of the plan to any person whom the chief executive considers has an interest in the transitioning of the control and receive and consider submissions from them. Presumably this will include the residents of the village, although the provision does not specifically mention residents.	
237OA Non-application of pt2, div 5 to existing contracts	<p>If the chief executive approves a proposed transition plan, he or she must give:</p> <ul style="list-style-type: none"> ▪ written notice of the decision to both the existing operator and the new operator; and ▪ a QCAT information notice for the decision to each resident. <p>Once approved the operator may make an application to the chief executive to revise an approved transition plan. The chief executive may also give a written direction to an operator to revise a</p>	

New section or part of RV Act	Amendment	Commencement	
	<p>transition plan that he or she has previously approved. The scheme operator is able to apply to QCAT for the review of the chief executive's decision to require the proposed transition plan to be revised.</p> <p>Upon approving a revised plan the chief executive must again give:</p> <ul style="list-style-type: none"> ▪ written notice of the decision to both the existing operator and the new operator; and ▪ a QCAT information notice for the decision to each resident. <p>The existing operator and the new operator must comply with an approved transition plan or may discontinue implementation of a plan (and give a notice of discontinuance in approved form to the chief executive). The chief executive can also request the existing operator and the new operator to notify them as to how an approved transition plan is being implemented.</p>		
8. Closure or winding down of retirement villages			
40	Definition for division	These new provisions in Part 2, Division 4 (sections 40 to 41A inclusive) will apply if an operator proposes to close a retirement village scheme by winding it down or ceasing to operate the scheme.	Date to be fixed by proclamation.
40A	Notice about cancelling registration		
40B	Requirement to prepare closure plan	The operator must give a notice to the chief executive and must prepare a closure plan (in an approved form) that provides for a clear, orderly and fair process for closure of the scheme.	
40C	Meaning of closure plan	Within 28 days of giving a notice to the chief executive, the operator must give each resident a copy of the proposed closure plan and a 'residents meeting notice'. The scheme operator must submit the proposed closure plan to the residents to be approved by special resolution.	
40D	Approval of closure plan		
40E	Revision of closure plan	If the residents do not approve the proposed closure plan, or do not do so within the required time frame, the scheme operator may make an application to the chief executive for approval of the proposed closure plan.	
40F	Requirement to implement closure plan		
40G	Discontinuing closure of retirement village scheme	Before deciding on the scheme operator's application, the chief executive must give notice of the application to each resident, give a copy of the proposed closure plan to any resident that requests it and have regard to correctly provided submissions from residents.	
40H	Applying to cancel registration		
41	Cancelling registration	Within 90 days of the later of receipt of the application or the day that further requested information is provided by the scheme operator, the chief executive may either approve the proposed closure plan or give the operator a written direction to revise the plan.	
41A	Application to tribunal for review		

New section or part of RV Act	Amendment	Commencement
	<p>The chief executive is taken to have approved the proposed closure plan if the chief executive fails to decide the application in the required time period.</p> <p>The chief executive may approve the plan if it provides for a clear, orderly and fair process for the closure of the village. If the chief executive approves the plan then he or she must give:</p> <ul style="list-style-type: none"> ▪ the operator an approval notice for the closure plan; and ▪ each resident and the operator, a QCAT information notice. <p>The QCAT information notice given to the residents gives the residents the right to apply to QCAT for a review of the decision.</p> <p>The operator may make an application to the chief executive to revise an approved closure plan. The chief executive may also give a written direction to an operator to revise a closure plan that has previously been approved. Upon approving a revised plan the chief executive must give a QCAT information notice for the decision to each resident.</p> <p>The operator must comply with an approved closure plan or may discontinue implementation of a plan (and give a notice of discontinuance in approved form to the chief executive and each resident). The chief executive can also request the scheme operator to notify them as to how an approved closure plan is being implemented by the operator.</p> <p>Existing section 53 dealing with termination of a residence contract by an operator will also be amended by the Amendment Act to provide that an operator must give the resident 2 months' notice of termination if the operator is implementing an approved closure plan.</p>	

9. Miscellaneous amendments

Appointment of manager

38 Chief Executive may apply for an order appointing a manager

The power of the chief executive in section 38 to apply to the District Court for an order to appoint a manager to protect the interests of residents will be made more prescriptive of the circumstances when it is able to be used. Date to be fixed by proclamation.

38A Management and administration of retirement village scheme by manager

The new section 38A will allow the costs of the manager to be paid from the village funds and make it clear that the State does not assume any liabilities if a manager is appointed.

New section or part of RV Act	Amendment	Commencement
Updating resale value	Section 67 will be amended to require the operator and the former resident to reconsider and agree on a new resale value of an unsold right to reside after <u>3 months</u> rather than the current 6 months, and then reconsider and agree every 3 months thereafter.	Date to be fixed by proclamation.
67 Updating agreed resale value every 3 months	However, the existing section 67 continues to apply to a residence contract where the termination date was before the commencement of the amended section 67 (see section 237N).	
237N Updating agreed resale value		
Valuations	New sections 70AB, 70AC and 70AD will allow the parties, including the resident, to give the valuer a submission about the valuation of the resale value wherever the RV Act provides for a valuation to be sought. A copy of the submission must be provided to the other parties and a response to the submission may be given by them (see section 70AB).	Date to be fixed by proclamation.
70AB Submissions to valuer	The amendments will also require valuers to consider a range of prescribed factors, including the exit fee payable and any capital gain sharing arrangements applying to the resident or former resident (see section 70AC).	
70AC Matters to be considered by valuers	A valuer may require an operator to give them stated information about the village, the unit or the residence contract that the valuer reasonably needs to carry out the valuation (see section 70AD).	
70AD Valuer may require information from scheme operator		
Access to documents	A regulation may prescribe documents relating to the operation of a retirement village scheme ('operational documents') which may be accessed by a resident or prospective resident.	Date to be fixed by proclamation.
85 Access to operational documents by residents and prospective residents	A resident or prospective resident may make a written request to an operator to allow them to inspect or take a copy of an operational document within a reasonable time of the request being made (at least 7 days) and upon payment of a fee (if any) prescribed by the regulation (see new section 85).	
	The operator must comply with any such request, but there are exceptions for 'personal information' about another person and for operational documents that have already been requested by the same person within the previous 30 days where the documents have not materially changed.	
Conduct of scheme operators	Existing section 86 will be amended to provide that a person who is a scheme operator or representative of a scheme operator must not, in relation to the operation of a retirement village, engage in conduct that is misleading or deceptive or is likely to mislead or deceive, including giving false or misleading information to the chief executive or to a resident or prospective resident.	Date to be fixed by proclamation.
86 Misleading or deceptive conduct		

New section or part of RV Act	Amendment	Commencement
<p>Approved forms</p> <p>227AA Requirements about approved forms for residence contracts and other documents</p>	<p>A form may be approved for use as a residence contract or other document that:</p> <ul style="list-style-type: none"> ▪ applies to documents of that type generally; or ▪ is limited in its application by reference to stated matters. <p>A requirement in the RV Act for a document to be in the approved form does not apply if there is no approved form at the time the document is adopted, entered into or otherwise used under the RV Act.</p>	<p>Date to be fixed by proclamation.</p>
<p>Regulation making</p> <p>228 Regulation-making power</p>	<p>Existing section 228 will be amended to allow regulations to be made under the RV Act which impose a requirement about the provision of equipment in a retirement village for public safety.</p> <p>It would seem likely that this provision has been added to allow for the introduction of equipment such as cardiac defibrillators in retirement villages through an amendment to the regulations.</p>	<p>Date to be fixed by proclamation.</p>