



House of Representatives

Supplementary Order Paper

Thursday, 16 October 2003

Retirement Villages Bill

Proposed amendments

Hon Lianne Dalziel, in Committee, to move the following amendments:

Clause 2

To omit from *subclause (1)* the words “**Sections 10 to 34,**” (line 6 on page 3), and substitute the words “**Part 2, sections**”.

Clause 3

To omit from *paragraph (c)(vi)* the words “Registrar of Companies” (line 12 on page 4), and substitute the words “Registrar of Retirement Villages”.

Clause 5

To insert after the definition of **former resident** (after line 21 on page 6), the following definition:

hospital care institution has the meaning specified in section 58(4) of the Health and Disability Services (Safety) Act 2001

To insert in *paragraph (a)(i)* of the definition of **intending resident**, after the word “village” (line 1 on page 7), the words “or the operator’s agent”.

To insert in *paragraph (a)(ii)* of the definition of **intending resident**, after the word “operator” (line 4 on page 7), the words “or the operator’s agent”.

To insert in *paragraph (b)* of the definition of **intending resident**, after the word “operator” in the first place where it appears (line 6 on page 7), the words “or the operator’s agent”.

To insert, before the definition of **Minister** (before line 9 on page 7), the following definition:

lawyer means a barrister or solicitor, as those terms are defined in section 2 of the Law Practitioners Act 1982

To omit from the definition of **Registrar** the words “of Companies appointed under the Companies Act 1993” (lines 29 and 30 on page 8), and substitute the words “of Retirement Villages appointed under **section 64A**”.

To insert, after the definition of **residential unit** (after line 18 on page 9), the following definition:

rest home has the meaning specified in section 58(4) of the Health and Disability Services (Safety) Act 2001

To insert in the definition of **security interest**, after the word “village” in the second place where it appears (line 26 on page 9), the words “or a person whose occupation right agreement has terminated”.

To insert, after the definition of **services** (after line 8 on page 10), the following definition:

statutory manager means a statutory manager of the operator of a retirement village appointed under the Corporations (Investigation and Management) Act 1989

Clause 6

To omit from *subclause (1)* the words “**subsections (2) to (4)**” (line 12 on page 10), and substitute the words “**subsections (2) to (6)**”.

To omit from *subclause (1)* the word “any” (line 13 on page 10), and substitute the words “the part of any”.

To omit the word “contain” (line 14 on page 10), and substitute the word “contains”.

To insert in *subclause (1)(b)*, after the word “deduction,” (line 28 on page 10), the words “or a contribution or a payment in kind of any form,”.

To insert in *subclause (1)*, after *paragraph (b)* (after line 30 on page 10), the following paragraph:

- (ba) the consideration is actually paid or agreed to be paid by a particular resident or particular residents or on behalf of that resident or those residents, or by another person for the benefit of that resident or those residents; or

To omit from *subclause (1)(c)* the words “for any services or facilities” (lines 31 and 32 on page 10), and substitute the words “or periodical payment (for example, a service fee) for any services or facilities or access to such services or facilities”.

To omit *subclause (2)* (lines 1 to 17 on page 11), and substitute the following subclauses:

- (2) A retirement village includes any common areas and facilities to which residents of the retirement village have access under their occupation right agreements.
- (2A) Despite **subsections (1) and (2)**, if 1 or more of the residential units referred to in **subsection (1)** are located in a rest home or hospital care institution, the only parts of that rest home or hospital care institution that comprise, or are included in, the retirement village are—
 - (a) the residential unit or units themselves; and
 - (b) the common areas and facilities within the rest home or hospital care institution (if any) to which the resident or

residents of the unit or units have access only by reason of their occupation right agreement.

To insert in *subclause (3)(b)*, before the words “residential units” (line 1 on page 12), the words “owner-occupied”.

To insert in *subclause (3)(b)(i)*, after the word “units” (line 5 on page 12), the words “that are not intended to provide accommodation predominantly for retired people and their spouses or partners”.

To omit *subclause (3)(e)* (lines 12 to 15 on page 12).

Clause 10(2)

To add to paragraph (a)(ii) (line 14 on page 15) the words “and the effect of that refusal”.

To insert in *paragraph (b)*, before the word “property” (line 15 on page 15), the words “part of the”.

To insert in *paragraph (b)(i)*, after the word “description” (line 20 on page 15), the words “, and identifying any computer registers on which the certificates of title are recorded”.

To omit from *paragraph (d)* the word “rights” (line 29 on page 15), and substitute the word “right”.

Clause 12

To omit *subclause (1A)* (lines 22 to 26 on page 17), and substitute the following subclause:

- (1A) If the holder of a security interest to whom **subsection (1)(ab)** applies fails or refuses to consent to the registration of a retirement village,—
 - (a) the operator of the village must promptly notify the statutory supervisor of the village (if there is one), and every resident and intending resident, of that failure or refusal and its effect:
 - (b) that failure or refusal does not prevent the registration of the village as a retirement village, or affect the obligation of the operator to apply for registration of the village.

Clause 13

To insert in *subclause (2)(c)(i)*, after the words “statements that” (line 11 on page 19), the words “in the supervisor’s opinion”.

To insert in *subclause (2)(c)(ii)*, after the words “return is” (line 14 on page 19), the words “, to the best of the supervisor’s knowledge and belief,”.

Clause 16

To insert, after *subclause (1)* (after line 13 on page 21), the following subclause:

- (1A) Nothing in **subsection (1)** prevents an operator of a retirement village from—
 - (a) notifying the Registrar of any change to a registered document or to the information in a registered document that is not required to be notified under **subsection (1)**:

- (b) complying with **subsection (1)(a) or (b) or (d)** by lodging with the Registrar an amended or new document in place of a registered document together with the appropriate prescribed form (if any).

To insert in *subclause (2)*, after the expression “**subsection (1)**” (line 14 on page 21), the words “or **subsection (1A)(a)**”.

Clause 20

To omit from *subclause (1)* the expression “**16(1)**” (line 16 on page 24), and substitute the expression “**16**”.

To insert in *subclause (2)*, after the expression “**subsection (3)**” (line 20 on page 24), the words “, a copy of any written consent to registration of the village lodged with the Registrar under **section 12(1)(ac)**,”.

Clause 21

To insert in *subclauses (1) and (3)*, after the word “liquidator” in each place where it appears (lines 14, 29, and 30 on page 25), the words “or statutory manager”.

To insert in *subclause (4)(b)*, after the word “any” (line 12 on page 26), the word “specified”.

To insert in *subclause (4)(b)(i)*, after the expression “**31 December 2002**” (line 14 on page 26), the words “(being a security interest that continues to secure the payment or repayment of all or any part of a sum secured by it on that date, that has not been paid or repaid)”.

To insert in *subclause (4)(b)(iii)*, after the word “has” (line 25 on page 26), the words “failed or”.

To add (after line 26 on page 26) the following subclause:

- (5) In **subsection (4)(b)**, **specified right** means any right conferred by the security interest referred to in **subsection (4)(b)(i)**.

Clause 23

To omit from the heading to this clause the words “or liquidator” (line 2 on page 27), and substitute the words “, liquidator, and statutory manager must ask statutory supervisor to represent residents”.

To insert, after the word “liquidator” in each place where it appears, (lines 4, 5, and 8 on page 27), the words “or statutory manager”.

Clause 24

To insert, after *subclause (1)(a)* (after line 26 on page 27), the following paragraph:

- (ab) make, allow to be made, or acquiesce in the making of any representation that all or part of any property, building, or premises is a retirement village if that representation is included in an advertisement published after the expiry of 6 months from the day on which this section comes into force; or

To omit from *subclause (1)(b)* the expression “12 months” (line 28 on page 27), and substitute the expression “6 months”.

To omit from *subclause (3)* the words “a person who is developing a retirement village (a **developer**)” (lines 11 and 12 on page 28), and substitute the words “the promoter of a retirement village”.

To omit from *subclause (3)* the words “the developer” in each place where they appear (lines 12, 16, and 27 on page 28), and substitute in each case the words “the promoter”.

Clause 26

To insert in *subclause (5)*, after the word “certify” (line 4 on page 31), the words “on the prescribed form (if any)”.

To add (after line 9 on page 31) the following subclause:

- (7) If an occupation right agreement is to be signed by an attorney of an intending resident, or a welfare guardian or manager of the property of an intending resident appointed under the Protection of Personal and Property Rights Act 1988, that person must be treated as the intending resident for the purposes of **subsections (3) to (6)**.

Clause 29

To omit *subclause (1)(c)* (line 16 on page 34), and substitute the following paragraph:

- (c) the code of practice (if any), and, if the code is not yet in force, a statement in writing that the code is not yet in force and the date on which it comes into force; and

Clause 29A

To omit *subclause (1)* (lines 2 to 7 on page 35), and substitute the following subclause:

- (1) If an occupation right agreement is entered in contravention of **section 17(3) or section 24(1) or section 26 or section 29(1)** in any substantial respect, the agreement is, unless it has been terminated, voidable by the resident by notice in writing to the operator and to the statutory supervisor of the village (if there is one) given at any time within the prescribed period).

To omit *subclause (2)(a)* (lines 10 to 13 on page 35), and substitute the following paragraph:

- (a) a refund, without deduction, of—
 - (i) all capital sums paid before or during the resident’s occupancy as consideration for right of occupation in the residential unit and all other payments for which services or facilities were not provided;
 - (ii) interest at the prescribed rate;
 - (iii) actual and reasonable costs associated with the voiding of the agreement:

To omit *subclauses (3) to (5)* (lines 18 to 31 on page 35), and substitute the following subclauses:

- (3) Despite **subsections (1) and (2)**,—
- (a) if the resident and the operator cannot agree when the refund required by **subsection (2)** is to be made, either party may give a dispute notice under **section 41** or **section 41A**, as the case requires;
 - (b) if an operator receives from a resident a notice purporting to avoid an occupation right agreement for a contravention of **section 17(3)** or **section 24(1)** or **section 26** or **section 29(1)** that the operator considers not to involve a contravention of any of those provisions in any substantial respect, the operator—
 - (i) may give a dispute notice under **section 41A** concerning the operation of **subclauses (1) and (2)**; and
 - (ii) must take all reasonable steps to remedy the contravention; and
 - (iii) if a dispute notice is given by the operator, is not required to make the refund referred to in **subsection (2)** while the dispute is unresolved.
- (4) In **subsection (1)**, the prescribed period,—
- (a) in relation to a contravention of **section 17(3)** or **section 24(1)** is the lesser of—
 - (i) a period of 3 years after the date on which the agreement was entered into; or
 - (ii) a period of 6 months after the resident knows, or ought to know, of the contravention;
 - (b) in relation to a contravention of **section 26** or **section 29(1)** is the lesser of—
 - (i) a period of 1 year after the date on which the agreement was entered into; or
 - (ii) a period of 6 months after the resident knows, or ought to know, of the contravention.
- (5) For the purposes of this section, a contravention of a particular provision is a contravention of that provision in a substantial respect if—
- (a) the contravention involves a significant detriment to the resident; or
 - (b) the contravention is otherwise material, and is not solely technical or minor in character; or
 - (c) the contravention involves deliberate misconduct on the part of the operator.

Clause 30

To add, as *subclause (2)* (after line 25 on page 36), the following subclause:

- (2) Nothing in the code of residents' rights applies to any health services or disability services or any facilities to which the Code of Health and Disability Services Consumers' Rights under the Health and Disability Commissioner Act 1994 applies.

Clause 32

To insert in *subclause (3)*, after the words “breach of” (line 16 on page 37), the words “a right referred to in”.

Clause 35

To add (after line 27 on page 40) the following subclauses:

- (3) Every operator of a retirement village must answer any questions and supply any information relating to the retirement village reasonably requested by the Retirement Commissioner for the performance of the Retirement Commissioner’s functions.
- (4) The operator must supply the information within 20 working days of receiving the request or within any further period that the Retirement Commissioner allows.

Clause 36

To omit *subclause (2)* (lines 4 to 6 on page 41), and substitute the following subclause:

- (2) Every person who was, immediately before the commencement of this section, approved under section 48 of the Securities Act 1978 to act as the statutory supervisor of retirement village schemes is, subject to **subsection (4)**, approved as a statutory supervisor for the purposes of this Act.

Clause 37

To insert, after *clause (1A)* (after line 3 on page 42), the following subclause:

- (1B) A deed of supervision must contain all information and other matters or provisions that are required to be included in it by regulations made under this Act.

Clause 38

To omit *paragraph (a)* (lines 10 to 13 on page 44), and substitute the following paragraph:

- (a) provide a stakeholder facility (for example, under **section 28(1)**) for intending residents and residents who pay deposits or progress payments in respect of occupation right agreements or uncompleted residential units or facilities at the retirement village; and

Clause 39

To add to *subclause (2)* (line 10 on page 46) the words “or within the further period that the person making the request allows”.

Clause 40

To insert in this clause (on page 46), in their appropriate alphabetical order, the following definitions:

applicant means a person who gives a dispute notice under **section 40D**

respondent means a person who is given a dispute notice under **section 40D**.

Clause 41

To omit from *subclause (1)(c)* the words “disposal of the unit” (line 13 on page 48), and substitute the words “termination or avoidance under **section 29A** of the resident’s occupation right agreement”.

To insert in *subclause (1)(d)*, after the words “rights or” (line 15 on page 48), the words “of the”.

To insert, after *subclause (1)* (after line 15 on page 48), the following subclause:

- (1AA) Nothing in **subsection (1)** enables a resident to give a dispute notice concerning any health services or disability services, or any facilities to which the Code of Health and Disability Services Consumers’ Rights under the Health and Disability Commissioner Act 1994 applies.

To omit *subclause (3)* (lines 29 to 35 on page 48).

Clause 41A

To add as *subclause (2)* (after line 4 on page 49), the following subclause:

- (2) An operator may give a dispute notice concerning the operation of **section 29A(1) and (2)** on the grounds of alleged contravention of **section 17(3) or section 24(1) or section 26 or section 29(1)**.

Clause 42A

To add, to *subclause (3)* (line 17 on page 50), the words “in accordance with the resident’s occupation right agreement or the code of practice”.

Clause 48A

To insert, after *subclause (1)* (after line 5 on page 55), the following subclause:

- (1A) When the panel consults the parties on a proposal to exercise any of its powers under **subsection (1)**, the panel must advise the parties of the effect and implications of the proposal.

To omit *subclause (2)* (lines 6 to 9 on page 55), and substitute the following subclauses:

- (2) If the panel refuses to hear, or to continue to hear, a dispute under **subsection (1)(b)**, the panel must refer the dispute to the nearest District Court for hearing.
- (2A) A District Court to which a dispute is referred under **subsection (2)**—
- (a) must hear and determine the dispute as if it were a disputes panel, and has all the powers and duties of a disputes panl under this Act:
- (b) in respect of any matter not otherwise provide for, may hear and determine the dispute in accordance with the District Courts Act 1948 and the District Courts Rules 1992.

Clause 50

To insert in *paragraph (c)*, before the word “stability” (line 17 on page 56), the word “financial”.

Clause 51

To omit from *paragraph (a)* the word “rights” (line 20 on page 56), and substitute the word “right”.

To insert in *paragraph (a)*, after the word “practice” (line 21 on page 56), the words “or **section 26(1)**”.

To add, as *subclause (2)* (after line 6 on page 57), the following subclause:

- (2) For the avoidance of doubt, a disputes panel may amend an occupation right agreement to comply with a provision of the code of practice from which the operator of the retirement village is exempted from complying, but the disputes panel must make the amendment subject to that exemption while it is in force.

Clause 51AB

To insert in *subclause (2)*, after the word “party” (line 5 on page 58), the words “, and the operator (if the operator is not a party to the dispute),”.

Clause 53

To omit from *subclause (1)* the words “allocates a dispute to” (line 2 on page 59), and substitute the word “appoints”.

Clause 53A

To insert in the heading to this clause, after the word “**District**” (line 1 on page 60), the words “or **High**”.

To insert in *subclause (1)*, after the word “panel” (line 3 on page 60), the words “or District Court”.

To insert in *subclause (2)*, after paragraph (a) (after line 6 on page 60), the following paragraph:

- (ab) in the case of a dispute referred to a District Court under **section 48A(2)**, the High Court; or

Clause 57

To omit from the heading to this clause the word “and” (line 4 on page 61), and substitute the word “an”.

To omit from *subclause (2)* the expression “**26**” (line 16 on page 61), and substitute the expression “**26(1)**”.

To insert in *subclause (2)*, after the expression “**28,**”, (line 16 on page 61), the expression “**29(1),**”.

To omit *subclause (5)* (lines 36 to 38 on page 61), and substitute the following subclause:

- (5) Every operator of a retirement village commits an offence who fails to comply with any reasonable request made under **section 38D** and is liable on summary conviction to a fine not exceeding \$10,000.

Clause 62

To omit from *subclause (2)* the words “**section 29(3A)** or under” (lines 24 and 25 on page 66).

Heading to Part 5

To omit the words “**Code of practice**” (line 9 on page 68), and substitute the words “**Registrar of Retirement Villages, code of practice**”.

New clauses 64A and 64B

To insert (after line 9 on page 68) the following heading and clauses:

*Registrar of Retirement Villages***64A Appointment of Registrar**

- (1) There must be a Registrar of Retirement Villages who must be appointed under the State Sector Act 1988 by the chief executive of the department that, with the authority of the Prime Minister, is for the time being responsible for the employment of that Registrar.
- (2) The person holding office as Registrar of Companies under the Companies Act 1993 immediately before the commencement of this section is deemed to have been appointed as Registrar of Retirement Villages in accordance with this section.

64B Power of Registrar to delegate

- (1) The Registrar may from time to time, in writing, delegate to any person all or any of the functions, duties, and powers exercisable by the Registrar under this Act, except this power of delegation.
- (2) Subject to any general or special directions given or conditions attached at any time by the Registrar, the person to whom any functions, duties, or powers are delegated under this section must perform and may exercise those functions, duties, and powers in the same manner and with the same effect as if they had been conferred on that person directly by this section and not by delegation.
- (3) Every person purporting to act under any delegation under this section is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.
- (4) Any delegation under this section may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or specified classes of offices.
- (5) Every delegation under this section is revocable in writing at will, and no such delegation prevents the exercise of any function, duty, or power by the Registrar.
- (6) Every delegation under this section, until revoked, continues in force according to its tenor, even if the Registrar by whom it was made has ceased to hold office.

Clause 66

To omit *subclause (1)* (lines 9 to 13 on page 70), and substitute the following subclauses:

- (1) The code of practice—
 - (a) comes into force,—
 - (i) in the case of the first code of practice, 1 year after it is approved under **section 65(1) or (4)**;
 - (ii) in the case of any subsequent code of practice approved under **section 65(1)**, on the date stated by the Minister in the document approving the code; and
 - (b) continues in force until a subsequent code of practice approved under **section 65(1)** comes into force.
- (1A) An operator of a retirement village may elect to be bound by a code of practice that is not yet in force, by giving notice of that election to—
 - (a) the Registrar; and
 - (b) the statutory supervisor of the village (if there is one); and
 - (c) every resident and intending resident of the retirement village.
- (1B) If an operator elects, under **subsection (1A)**, to be bound by a code of practice that is not yet in force,—
 - (a) that code must for all purposes be treated as if it is in force in respect of that operator and the retirement village to which the election relates; and
 - (b) any earlier code of practice ceases to apply to that operator and the retirement village to which the election relates.

To add (after line 21 on page 70) the following subclause:

- (3) Any variation by the Minister comes into force on the date stated by the Minister in the document making the variation.

Clause 67

To insert in *subclause (2)(a)(ii)*, after the word “liquidator” (line 12 on page 71), the words “or statutory manager”.

To insert, after *subclause 2* (after line 19 on page 71), the following subclause:

- (2A) Nothing in a code of practice applies to any health services or disability services or facilities to which the Code of Health and Disability Services Consumers’ Rights under the Health and Disability Commissioner Act 1994 applies.

Clause 72

To omit from *subclause (3)* the words “, a Deputy Registrar, a District Registrar, or an Assistant Registrar when directed to do so by any person holding any of those offices”, and substituting the words “when directed to do so by the Registrar” (lines 24 to 26 on page 75).

Clause 73

To omit *subclause (1)* (lines 9 to 14 on page 76).

Clause 74(1)

To insert, immediately after *paragraph (e)* (after line 15 on page 77), the following paragraph:

- (ea) specifying information, provisions, and matters to be included in a deed of supervision:

Clause 77

To omit *subclause (2)* (lines 19 to 31 on page 81), and substitute the following subclause:

- (2) Section 9A of the Financial Reporting Act 1993 is amended by adding the following subsections:
 - “(4) **Subsection (5)** applies if—
 - “(a) the financial statements of an operator of a retirement village (as those terms are defined in **sections 5 and 6** of the Retirement Villages Act 2001) include the activities of—
 - “(i) more than 1 retirement village; or
 - “(ii) another trading activity that operates independently of the retirement village; and
 - “(b) either the statutory supervisor of the retirement village, or (if the operator is exempted under **section 37C** of that Act from appointing a statutory supervisor) the Registrar, as a condition of that exemption, requires the operator to comply with **subsection (5)**.
 - “(5) If this subsection applies, any requirement for an operator of a retirement village to prepare financial statements includes—
 - “(a) a requirement to prepare financial statements in respect of the retirement village as well as in respect of the operator; and
 - “(b) a requirement to lodge a copy of both statements, within 20 working days after the financial statements are required to be signed,—
 - “(i) with the statutory supervisor of the retirement village (if there is one); or
 - “(ii) if the operator is exempted from appointing a statutory supervisor, with the Registrar or with any person the Registrar appoints under a condition of that exemption.”

Schedule 1A

To insert in *clause 2(a)(iii)*, after the word “planned” (line 31 on page 87), the words “and the location, size, and effect on residents of those new units”.

To add to *clause 2(b)* (line 36 on page 87) the words “and the location, size, and effect on residents of those new services or facilities”.

To insert in *clause 3(e)*, after the word “unit” (line 11 on page 89), the words “at intervals of 2 years, 5 years, and 10 years after the resident enters into an occupation right agreement”.

To insert in *clause 4(a)*, after the word “village” (line 23 on page 89), the words “and the effect of that refusal”.

Schedule 2

To omit *clause 1(b)(i)* (lines 25 to 28 on page 90), and substitute the following subparagraphs:

- (i) the operator and the purchaser to consult with residents before the operator’s interest in the village is sold or otherwise disposed of:
- (ia) the consultation referred to in **subparagraph (i)** to take place—
 - (A) at a time directed by the statutory supervisor of the retirement village (if there is one); or
 - (B) in any other case, at an appropriate time that is a reasonable time before settlement of the transaction:
- (ib) the operator to consult with residents before appointing a new manager:

Schedule 3

To omit from *clause 1* the word “rights” (line 8 on page 94), and substitute the word “right”.

To omit the word “Companies” (line 25 on page 95), and substitute the words “Retirement Villages”.

Explanatory note

This Supplementary Order Paper amends the Retirement Villages Bill by including a number of changes to the Bill that are substantive and a number that are technical in character.

The main substantive changes are as follows:

- amendments are made to *clause 6* to provide that where residential care units and hospital care institutions providing care for older people have 2 or more residential units that are offered for residency in return for capital sums, those units and any common areas for the residents of those units are to be treated as retirement villages:
- *clause 10* is amended to require the operator of a retirement village to disclose not only the fact of refusal when certain holders of security interests refuse to consent to the registration of the village, but also the effect of that refusal:
- *clause 13* is amended to remove the requirement that any statutory supervisor of a retirement village certify that the financial statements of the operator comply with the Financial Reporting Act 1993 and that the

information supplied in the annual return is accurate, and substitute a requirement that the statutory supervisor certify those matters to the best of the supervisor's knowledge and belief:

- *clause 16* is amended to give the operator of a retirement village more flexibility in the way in which the operator notifies the Registrar of Retirement Villages of changes of circumstances and documentation, by allowing the notification of information that is not required to be notified, and by allowing operators to notify changes by using a replacement document in place of an existing registered document:
- *clause 21* of the Bill is amended to extend the restrictions imposed by that clause (which relate to the disposal of a retirement village otherwise than as a going concern, disclaiming occupation right agreements, and the eviction or exclusion of residents) to statutory managers as well as receivers, liquidators, and the holders of security interests. A similar amendment is made to *clause 23*:
- *clause 24* of the Bill is amended to prohibit a false representation that any property is a retirement village when it is not in fact registered as a retirement village:
- *clause 26* of the Bill is amended to allow an occupation right agreement to be signed by an attorney of an intending resident, or a welfare guardian or manager of the property of an intending resident appointed under the Protection of Personal and Property Rights Act 1988:
- *clause 29* is amended to require details to be provided to an intending resident about whether there is a code of practice, and, if it is not yet in force, when it comes into force:
- *clause 29A* is amended to limit the ability of a resident to avoid an agreement entered into in contravention of *clauses 17(3), 24(1), 26, or 29(1)*. Under *new clause 29A*, as reported back by the Select Committee, an agreement entered into in contravention of any of these provisions is voidable at any time within 3 years of the date the agreement was entered into. The amendment made by this Supplementary Order Paper confines the ability of a resident to avoid an agreement to circumstances where there has been a contravention of those provisions in a substantial respect. The meaning of that expression is defined in proposed *new section 29A(5)*. The amendments to *clause 29A* also alter the period of time during which a notice avoiding an agreement can be given and provide a mechanism for an operator to bring a dispute under *clause 41A* to a dispute committee if the operator disagrees with the resident that there are grounds for avoiding the agreement:
- *clause 30* is amended by including a provision excluding the application of the code of residents rights to health services or disability services and certain other facilities (facilities to which the Code of Health and Disability Services Consumers' Rights applies):
- *clause 41* is amended to prevent residents from bringing a dispute in respect of health services or disability services or any facilities to which the Code of Health and Disability Services Consumers' Rights applies:

- *new clauses 64A and 64B* create a separate position of Registrar of Retirement Villages, instead of adding that position to the list of duties of the Registrar of Companies, as the Bill presently provides. The position of Registrar of Retirement Villages will initially be held by the Registrar of Companies but the location of that office will be able to be changed to a different department of State, if that is considered desirable:
- *clause 77* is amended to limit the circumstances in which an operator of a retirement village will be required, under the Financial Reporting Act 1993, to prepare financial statements in respect of both the retirement village and the operator, in order to avoid unnecessary compliance costs. Financial statements will be required to be prepared in respect of both the retirement village and the operator only if the statutory supervisor or, in certain circumstances, the Registrar of Retirement Villages so directs:
- *Schedule 2* is amended to remove the requirement for an occupation right agreement to contain a provision requiring the operator to consult with residents before putting the retirement village on the market. The requirement to consult before sale or other disposal of the retirement village is retained.

The other amendments made by this Supplementary Order Paper—

- make changes to other clauses of the Bill that are consequential to the changes outlined above:
- insert necessary definitions:
- make fine tuning and other technical changes:
- correct wrong cross-references and other errors in the Bill as reported back from the Select Committee.