



Retirement Villages (General) Regulations 2006

Anand Satyanand, Governor-General

Order in Council

At Wellington this 25th day of September 2006

Present:

His Excellency the Governor-General in Council

Pursuant to sections 101 and 104 of the Retirement Villages Act 2003, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Retirement Villages (General) Regulations 2006.

2 Commencement

These regulations come into force on 1 May 2007.

Part 1 Preliminary

3 Interpretation

- (1) In these regulations, unless the context otherwise requires, **Act** means the Retirement Villages Act 2003.
- (2) Terms defined in the Act have the same meaning in these regulations as they have in the Act, unless the context otherwise requires.

Part 2

Forms to be given to Registrar

4 Forms to be given to Registrar

- (1) The forms identified in the following table are prescribed for the provisions of the Act identified in the table:

Form in Schedule 1	Provision(s) of the Act	Subject of provision(s)
Form 1	Section 10(2)	Application for registration of retirement village
Form 2	Sections 13(2) and 16	Annual return for retirement village and certification of registered documents
Form 3	Section 17(1) and (2)(b)	Notification of change of circumstances, etc
Form 4	Section 19(1)(a)	Request for cancellation of registration
Form 5	Section 41(2)(a)	Application for exemption from requirement to appoint statutory supervisor
Form 6	Sections 95(2) and 96(4)	Notice of change of registered office, or address for service, of retirement village

- (2) If a completed form prescribed by subclause (1) occupies 2 or more pages, each page except the first must be headed with—
- (a) the name of the retirement village to which the form relates; and
 - (b) the registration number of the village, if it has one.

Part 3

Period for certifying registered documents

5 Period for certifying registered documents

The operator of a retirement village must lodge a certificate under section 16 of the Act at the same time as the operator is required to deliver to the Registrar an annual return for the village in accordance with section 13 of the Act.

Part 4

Provisions relating to occupation right agreements

Subpart 1—Occupation right agreements

6 Provisions that must be in occupation right agreements

- (1) This subpart (except regulation 13) sets out requirements for occupation right agreements (in addition to the requirements set out in Schedule 3 of the Act).
- (2) The regulations in this subpart do not limit one another.

7 General provisions

An occupation right agreement must include provisions dealing with the following topics:

- (a) the name and address of the relevant retirement village;
- (b) the nature of the right to occupy a residential unit in the village;
- (c) the rights of the resident and the operator to deal with the residential unit (including selling, marketing, granting of a security interest in, borrowing against the resident's legal interest in, granting a security interest in the termination proceeds of, letting, and permitting others to stay in, the unit);
- (d) arrangements for managing the village;
- (e) services and facilities at the village;
- (f) charges relating to the village and the provision of services and facilities.

8 Operator's obligation to run village properly

An occupation right agreement must include a provision requiring the operator of the retirement village—

- (a) to use reasonable care and skill in ensuring that the affairs of the village are conducted properly and efficiently; and
- (b) to keep the village in good condition and order; and
- (c) to make and adhere to a long-term plan for maintaining and refurbishing the village and its facilities; and
- (d) to insure the village, for its full replacement value, to the satisfaction of the statutory supervisor (if any) of the village; and

- (e) to use reasonable care and skill in the exercise and performance of the operator's powers, functions, and duties.

9 Operator's obligation to provide financial statements

- (1) An occupation right agreement must include a provision requiring the operator of the retirement village, on request, to give the resident, free of charge, a copy of the audited financial statements, relating to the operator or the village, most recently delivered by the operator under section 18 of the Financial Reporting Act 1993.
- (2) The provision described in subclause (1) must survive termination of the occupation right agreement to apply in relation to the former resident until the former resident is refunded the capital sum, less the deductions (if any) the agreement provided for.
- (3) An occupation right agreement must include a provision requiring the operator of the retirement village—
 - (a) to prepare, at the start of each accounting period (as defined in the Financial Reporting Act 1993) of the operator, a statement forecasting for the period—
 - (i) the operating expenditure relating to the village; and
 - (ii) all expenditure relating to the village (including amounts repayable to residents, former residents, and their estates); and
 - (iii) all income relating to the village; and
 - (iv) the amounts of the operating expenditure that must be met by the residents of the village; and
 - (b) to give a copy of the statement to each resident of the village within 3 months of the start of the accounting period.

10 Operator's obligations relating to residents' meetings

- (1) An occupation right agreement must include provisions—
 - (a) requiring the operator of the retirement village to call, in the way described in subclause (2), meetings of the residents of the village to be held in the circumstances and for the purposes described in subclause (3); and
 - (b) requiring the meetings to be chaired by a person—

- (i) appointed by the statutory supervisor (if any) of the village; or
 - (ii) appointed in accordance with the conditions (if any) of an exemption (if any) of the operator from appointing a statutory supervisor; or
 - (iii) appointed by the majority of the residents of the village who are at the meeting if an appointment has not been made under subparagraphs (i) or (ii); and
- (c) requiring the operator to give the residents at a meeting, orally or in writing, information that—
- (i) relates to the affairs of the village; and
 - (ii) has been requested with reasonable notice by a resident of the village.
- (2) The way of calling a meeting is to provide written notice of it to each resident of the village in accordance with section 106 of the Act at least 10 working days before the meeting.
- (3) The circumstances and purposes of meetings are set out in the following table:

Item	Circumstances	Purpose
1	Within 6 months after the end of an accounting period for which financial statements must be prepared for the operator or the retirement village	Considering the financial statements
2	There is a statutory supervisor of the village and the meeting has been requested by the statutory supervisor or by at least 10% of the residents of the village	Giving the statutory supervisor the residents' opinions or directions relating to the exercise of the statutory supervisor's powers
3	There is not a statutory supervisor of the village and the meeting has been requested by at least 10% of the residents of the village	Giving the operator the residents' opinions or directions

11 Operator's obligation to find new resident for unit vacated

If an occupation right agreement provides for a process involving the operator of the retirement village finding a new

resident for the residential unit after it is vacated by the resident covered by the agreement, the agreement must also include provisions requiring the operator—

- (a) to make all reasonable efforts to find a new resident for the unit; and
- (b) not to give preference to finding residents for residential units in the village that have not previously been occupied by a resident under an occupation right agreement.

12 Procedure if there ceases to be statutory supervisor

An occupation right agreement must include provisions on the procedure to be followed if there ceases to be a statutory supervisor for the retirement village (whether or not there is a statutory supervisor for the village when the agreement is made).

Certificates of legal advice on occupation right agreements

13 Certificate of lawyer's advice on occupation right agreement

The form in Schedule 2 is prescribed for the purposes of section 27(5) of the Act.

Subpart 2—Disclosure statements

Details of matters required by Act to be in disclosure statements

14 Ownership structure and occupancy rights

- (1) For the purposes of clause 1(a) of Schedule 2 of the Act, this regulation prescribes details relating to the ownership structure of the retirement village and the type of occupancy right or occupancy rights offered within the village.
- (2) The details relating to the ownership structure are as follows:
 - (a) the legal nature of each operator of the village;
 - (b) the details specified in the table in subclause (3) for an operator of the village who is not a natural person and is an entity or structure described in the table;
 - (c) the underlying freehold or other tenure interest (if any) in the village that is retained by the operator:

- (d) the nature and extent of any registered or unregistered encumbrances, mortgages, or security interests affecting the interests retained by the operator, and the amounts and maximum amounts of any moneys secured and able to be secured under them;
- (e) the nature of residents' tenure interests in the village, including whether those interests are held under separate titles and whether they are secured.

(3) The table is as follows:

Item	Operator	Details
1	A company that is not a listed company	The directors of the company
2	A trust	The nature of the trust (eg. unit trust or charitable trust) and the name of each of the trustees
3	Another ownership structure or entity	The name of each person who owns or controls the structure or entity

(4) The details relating to the type of occupancy right or occupancy rights offered within the retirement village are as follows:

- (a) which of the following rights are offered to the intending residents to whom the disclosure statement is given and which are offered to intending residents generally:
 - (i) a contractual licence to occupy that does not grant the resident any interest in land of the residential unit;
 - (ii) a company licence to occupy in a flat owning company issued under Part 7A of the Land Transfer Act 1952;
 - (iii) a freehold unit title issued under the Unit Titles Act 1972;
 - (iv) a leasehold unit title issued under the Unit Titles Act 1972;
 - (v) a registered lease;
 - (vi) an unregistered lease;
 - (vii) a registered cross-lease;
 - (viii) a tenancy agreement;
 - (ix) freehold title;
 - (x) another legal ownership structure;

- (b) what the body corporate committee and management structure is for the rights (if any) that are unit titles:
- (c) what the legal ownership structure is for the rights (if any) that are covered by paragraph (a)(x).

15 Resident's interest in residential unit

- (1) For the purposes of clause 1(b) of Schedule 2 of the Act, this regulation prescribes details relating to the type of interest a resident of the retirement village has in his or her residential unit.
- (2) The details are as follows:
 - (a) which of the rights described in subclause (3) the resident has:
 - (b) for each right described in subclause (3) that the resident has,—
 - (i) what conditions, if any, there are on the right (for example, consent of the operator of the village); and
 - (ii) what other limits, if any, there are on the right:
 - (c) which of the rights described in subclause (3) the resident does not have:
 - (d) whether there are rules applying specifically to the village that affect the resident in living in or using the unit:
 - (e) what other limits, if any, there are on the resident living in or using the unit, including limits on the resident making changes to the unit's decor or fittings:
 - (f) whether the operator of the village controls the sale or marketing of the unit, or has a right to sell or buy the unit, and, if the operator does,—
 - (i) what the procedures and costs to the resident are for the operator selling, marketing, or buying the unit; and
 - (ii) what rights (if any) the resident has if there is a delay in the sale of the unit:
 - (g) the circumstances (if any) in which the resident is entitled to a refund of a capital sum paid and the way in which the refund is calculated.
- (3) The rights are as follows:
 - (a) the right to sell or market the residential unit:
 - (b) the right to mortgage or otherwise borrow against the resident's interest in the unit:

- (c) the right to grant a security interest in the termination proceeds:
- (d) the right to let the unit to another person:
- (e) the right to have a member of the resident's family (including a de facto partner of the resident) stay with the resident in the unit:
- (f) the right to have a person board with the resident in the unit:
- (g) the right to have a person stay with the resident in the unit as a companion or carer for the resident:
- (h) the right to have a person stay in the unit to mind it for the resident while the resident is away:
- (i) the right to keep a pet in the unit.

16 Management arrangements for retirement village

- (1) For the purposes of clause 1(c) of Schedule 2 of the Act, this regulation prescribes details relating to the management arrangements for the retirement village.
- (2) The details include the following:
 - (a) whether there is a manager of the village:
 - (b) whether there is a committee of residents of the village and, if there is, its role:
 - (c) if residential units in the village will be held under unit titles, the role of the body corporate (as defined in the Unit Titles Act 1972) for the units.
- (3) Also, if there is a manager of the village, the details include—
 - (a) the name and contact details of the manager, including a street address and the number of a telephone with a landline connection; and
 - (b) the key management personnel and staff of the manager; and
 - (c) the times when the manager will be at the village; and
 - (d) the times when the manager will have staff at the village; and
 - (e) the other times at which the manager may be contacted; and
 - (f) the contact details of the manager and staff (if any) at the village; and
 - (g) the experience and core duties of the manager; and
 - (h) the legal relationship between the manager and the operator; and

- (i) whether there are any ownership links between the manager and the operator and what they are (if any); and
- (j) whether there is a management agreement between the manager and the operator and, if there is,—
 - (i) the term of the agreement; and
 - (ii) what amounts are payable to the manager under the agreement.

17 Statutory supervisor

- (1) For the purposes of clause 1(d) and (e) of Schedule 2 of the Act, this regulation prescribes details relating to—
 - (a) the identity and role of the statutory supervisor (if any); and
 - (b) any exemption from the requirement to appoint a statutory supervisor.
- (2) The details are as follows:
 - (a) a statement about statutory supervisors in the form set out in Schedule 3:
 - (b) whether there is a statutory supervisor for the village:
 - (c) the name and contact details for the statutory supervisor (if any) for the village:
 - (d) whether an exemption from the requirement to appoint a statutory supervisor for the village is in force:
 - (e) if there is such an exemption in force,—
 - (i) the date of the exemption; and
 - (ii) the period of the exemption; and
 - (iii) the conditions (if any) to which the exemption is subject.

18 State of retirement village

- (1) For the purposes of clause 2(a) of Schedule 2 of the Act, this regulation prescribes details relating to the state of the retirement village.
- (2) The details are as follows:
 - (a) the age, construction, condition, and state of maintenance of the village, including its facilities, paths, driveways, roads (if any), grounds, lighting, heating arrangements (if any), and security features:

- (b) whether the village is fully or partially completed or still to be built:
- (c) if the village is partially completed, the date of completion:
- (d) the number of residential units in the village that are occupied:
- (e) the number of units in the village that are unoccupied:
- (f) the number (which may be zero) of residential units in the village that are still to be completed:
- (g) the expected completion date of the uncompleted residential units in the village (if any):
- (h) whether new residential units in the village are planned:
- (i) the number, location, size, expected completion date, and effect on existing residents of planned new units in the village (if any):
- (j) the following information about residential units in the village that were disposed of in the 12 months before the day the disclosure statement was issued:
 - (i) the number (which may be zero) of the units (the **occupied units**) that had been occupied before their disposal:
 - (ii) the time taken to dispose of each of the occupied units, if their number is not zero:
 - (iii) the average time taken to dispose of an occupied unit, if the number of units is not zero:
 - (iv) the number (which may be zero) of the units (the **unoccupied units**) that had been unoccupied before their disposal:
 - (v) the time taken to dispose of each of the unoccupied units, if the number of units is not zero:
 - (vi) the average time taken to dispose of an unoccupied unit, if the number of units is not zero:
- (k) if, in the village, 2 or more of the kinds of dwelling mentioned in the definition of residential unit in the Act exist or are planned, a breakdown of the information described in paragraphs (d), (e), (f), (g), (i), and (j) by each of those kinds.

19 Services and facilities at retirement village

- (1) For the purposes of clause 2(b) of Schedule 2 of the Act, this regulation prescribes details relating to—

- (a) the services and facilities offered at the retirement village; and
 - (b) new services or facilities planned and the location, size, and effect on residents of those new services or facilities.
- (2) The details are as follows:
- (a) for each of the services described in subclause (3), whether the service is available and, if it is, its nature, extent, and frequency:
 - (b) for each of the facilities described in subclause (4), whether the facility is available and, if it is, the limits (if any) on its availability to residents:
 - (c) if facilities described in subclause (4)(1) are available, the nature of the facilities:
 - (d) what currently unavailable services and facilities it is planned to make available (if any), when it is planned that each of them will be available, and what the effect of each of them becoming available will be for residents.
- (3) The services are as follows:
- (a) gardening:
 - (b) lawnmowing:
 - (c) repair and maintenance:
 - (d) nursing and medical services:
 - (e) provision of meals:
 - (f) shops and other services for the provision of goods:
 - (g) laundry services (other than the provision of facilities for residents to do their own laundry):
 - (h) hairdressing and other personal care services:
 - (i) transport services:
 - (j) recreation and entertainment services:
 - (k) security services:
 - (l) other services.
- (4) The facilities are as follows:
- (a) dining facilities:
 - (b) lounge or television room:
 - (c) laundry:
 - (d) gymnasium:
 - (e) spa pool:
 - (f) health clinic:
 - (g) swimming pool:

- (h) tennis court:
- (i) pétanque court:
- (j) bowling green:
- (k) library:
- (l) other facilities.

20 Charges

- (1) For the purposes of clause 2(c) of Schedule 2 of the Act, this regulation prescribes details relating to charges.
- (2) The details are as follows:
 - (a) the charge, or basis for charging, for each of the services and facilities available:
 - (b) whether an amount must be paid to secure an interest in a residential unit in the retirement village and, if it must,—
 - (i) what the amount is for each unit the intending resident is considering securing an interest in; and
 - (ii) an itemised breakdown of that amount; and
 - (iii) if any amount is refundable, the circumstances in which a refund will be made and the amount of the refund:
 - (c) whether there is a charge for permanently leaving a residential unit in the village for any reason (for example, death, termination of an occupation right agreement, moving to another unit in the village, or leaving the village) and, if there is, what the amount of the charge is:
 - (d) whether there is a charge for moving from one residential unit in the village to another unit in the village and, if there is, what the amount of the charge is:
 - (e) whether there are periodical charges payable by a resident to the operator and, if there are,—
 - (i) what the amount of each charge is and what it covers; and
 - (ii) the extent to which the charges paid are kept by the operator for services provided and the extent to which the operator pays them to a related party; and

- (iii) whether any new or changed charges are anticipated and, if they are, what they will be or how they will be worked out; and
- (iv) whether a resident of a residential unit must continue to pay the charges after vacating the unit and, if the resident must, for what period:
- (f) whether amounts are payable by residents for maintenance, rates, and insurance and, if they are, what each amount is and what it covers:
- (g) if there is a maintenance or sinking fund for repairs, maintenance, refurbishment, and capital replacement works associated with the village, whether amounts may be payable by residents in connection with expenditure from the fund:
- (h) if the intending resident is considering acquiring a unit title interest in a residential unit, whether amounts are charged by the body corporate (as defined in the Unit Titles Act 1972) for the unit and, if they are, what each amount is and what it covers:
- (i) for each amount described in paragraph (b)(i), (c), (d), (e)(i), (f), (g), or (h),—
 - (i) how the amount is worked out (including what the roles of the operator and the intending resident are in working out the amount, what the effect of any policies for increasing the amount is, and what the relationship between the amount and the costs involved is); and
 - (ii) what the arrangements for billing for the amount are (including the frequency of billing, if relevant).

21 Maintenance and refurbishment

- (1) For the purposes of clause 2(d) of Schedule 2 of the Act, this regulation prescribes details relating to provision made for maintenance and refurbishment at the retirement village.
- (2) The details are as follows:
 - (a) what maintenance the operator of the village is responsible for:
 - (b) what maintenance the resident of a residential unit in the village is responsible for:

- (c) whether there is a maintenance or sinking fund for repairs, maintenance, refurbishment, and capital replacement works associated with the village (including its facilities) and, if there is,—
 - (i) what the balance of the fund is at the date of issue of the disclosure statement; and
 - (ii) what expenditure is planned from the fund; and
 - (iii) the purposes for which expenditure from the fund may be incurred and whether they include refurbishment of a residential unit vacated because the relevant occupation right agreement is terminated; and
 - (iv) what consultation of residents of the village is undertaken before decisions are made on major expenditures from the fund; and
 - (v) whether a resident who disposes of his or her residential unit is entitled to a payment, refund, or credit from the fund and, if the resident is, how the amount of the payment is worked out.

22 Financial accounts for retirement village

- (1) For the purposes of clause 2(e) of Schedule 2 of the Act, this regulation prescribes details relating to the preparation, auditing, and disclosure of financial accounts for the retirement village.
- (2) The details are as follows:
 - (a) whether the Financial Reporting Act 1993 requires the operator of the village to prepare—
 - (i) only financial statements relating to the operator; or
 - (ii) separate financial statements for both the operator and the village:
 - (b) what the process is for preparing, auditing, and disclosing financial statements that the Financial Reporting Act 1993 requires the operator to prepare:
 - (c) the basis on which those statements are available to a resident of the village:
 - (d) whether accounts or financial statements (other than those required by the Financial Reporting Act 1993) are prepared in relation to the operation of the village and charges to residents of the village and, if they are,—

- (i) what the accounts or financial statements cover; and
 - (ii) how they are dealt with; and
 - (iii) whether they are audited; and
 - (iv) whether they are available to residents of the village;
- (e) whether accounts are prepared for the manager of the village separately from those the Financial Reporting Act 1993 requires the operator to prepare and, if they are, whether they are available to residents of the village on request:
- (f) whether the financial statements attached to the disclosure statement—
- (i) consist only of financial statements relating to the operator or consist of financial statements for the operator and separate financial statements for the village; and
 - (ii) have been audited.

23 Cooling-off period and cancellation of occupation right agreement

- (1) For the purposes of clause 3(a) of Schedule 2 of the Act, this regulation prescribes details relating to—
- (a) the cooling-off period and the right to cancel for delay provided by section 28 of the Act; and
 - (b) any additional cooling-off period or right to cancel for delay given by the occupation right agreement.
- (2) The details are as follows:
- (a) the full text of section 28 of the Act and of the definitions in that Act of terms used in that section:
 - (b) whether the occupation right agreement to which the disclosure statement relates contains a cancellation provision of the kind described in section 28(5) of the Act but with an effect different from section 28(1) of the Act and, if the agreement does,—
 - (i) what is the applicable period for cancelling without having to give a reason; and
 - (ii) if relevant, what is the period after which the agreement may be cancelled if the residential unit is not finished to the point of practical completion within the period.

24 Varying occupation right agreement

A disclosure statement must contain details relating to whether the operator or a resident of a retirement village can vary an occupation right agreement and, if so, in what circumstances as set out in clause 3(b) of Schedule 2 of the Act.

25 Termination of occupation right agreement

- (1) For the purposes of clause 3(c) of Schedule 2 of the Act, this regulation prescribes details relating to the arrangements for termination of an occupation right agreement.
- (2) The details are as follows:
 - (a) the effect of the termination on the persons (if any) living with the resident immediately before the termination;
 - (b) whether any charges continue to be payable by the former resident after the termination and, if they do,—
 - (i) whether each charge is periodical or not; and
 - (ii) how the amount of each charge is worked out; and
 - (iii) the period for which each periodical charge continues to be payable;
 - (c) the application of any maintenance or sinking fund contributions paid by or allocated to the former resident;
 - (d) the extent to which the former resident is exposed to a capital gain or capital loss arising as a result of the termination;
 - (e) the process to be followed in finding a new resident for the vacated residential unit;
 - (f) the process for determining the sum or sums to be paid by the new resident for the right to occupy the vacated unit and the entitlements of any resident, former resident, or the estate of a former resident in relation to that sum or sums.

26 Deductions from payments by and to residents

The details about deductions from payments made by or due to residents are the prescribed details and are set out in clause 3(d) of Schedule 2 of the Act.

- 27 Estimated financial return on disposal of residential unit**
The details about the estimated financial return that a resident, former resident, or the estate of a former resident could expect to receive on the sale or other disposal of a vacant residential unit at intervals of 2 years, 5 years, and 10 years after the resident enters into an occupation right agreement are the prescribed details and are set out in clause 3(e) of Schedule 2 of the Act.
- 28 Exemption from requirement to comply with code of practice**
- (1) For the purposes of clause 4(b) of Schedule 2 of the Act, this regulation prescribes details of any exemption from the requirement to comply with a provision or provisions of the code of practice.
 - (2) The details are as follows:
 - (a) the provision or provisions to which the exemption relates; and
 - (b) the duration of the exemption; and
 - (c) the conditions (if any) to which the exemption is subject.

*Other matters required to be included in
disclosure statements*

- 29 Formal matters**
- (1) A disclosure statement must include—
 - (a) a statement of the date on which it is registered; and
 - (b) a table of contents with page numbers; and
 - (c) the introductory statement of information for intending residents set out in Schedule 4; and
 - (d) the name of the retirement village; and
 - (e) each of the following addresses of the village:
 - (i) address of the registered office;
 - (ii) address for service;
 - (iii) street address; and
 - (f) the following details of each operator of the village:
 - (i) name;
 - (ii) address of the registered office (if any);
 - (iii) street address;
 - (iv) contact details;

- (v) the name, designation, and contact details of a natural person who is an agent of the operator, if the operator is not a natural person; and
 - (g) the statement set out in Schedule 5 about avoiding an occupation right agreement.
- (2) The matters in a disclosure statement must be expressed in a clear and unambiguous form.

30 Responsibilities for insurance

A disclosure statement must include an explanation of—

- (a) what insurance cover for the retirement village the operator is to obtain or has obtained; and
- (b) what risks relating to the residential unit the resident is to be responsible for.

31 Moving into rest home or hospital care institution in retirement village

- (1) If a retirement village shares premises with a rest home or hospital care institution, a disclosure statement for an occupation right agreement relating to the village must include—
- (a) a statement indicating whether the agreement also allows the resident to leave the residential unit and receive either rest home care in the rest home or hospital care in the hospital care institution; and
 - (b) if the agreement allows that, an explanation of the terms on which that is allowed.

- (2) In this regulation,—

hospital care has the meaning given by section 4 of the Health and Disability Services (Safety) Act 2001

rest home care has the meaning given by section 4 of the Health and Disability Services (Safety) Act 2001.

32 Effect of marriage, etc, on occupation right agreement

A disclosure statement must include an explanation of the effect (if any) on the occupation right agreement of a person marrying, or entering into a civil union with, the resident after the agreement is made (whether or not the resident was in another marriage or civil union when the agreement was made).

33 Financial assistance

- (1) This regulation applies if—
 - (a) an intending resident is given a disclosure statement relating to a retirement village; and
 - (b) in the 6 months before the disclosure statement is given, an advertisement was published to the public, a section of the public including the intending resident, or the intending resident; and
 - (c) the advertisement indicated that residents of the village could receive financial assistance from any person in connection with being residents of the village.
- (2) The disclosure statement must include an explanation of the nature of the financial assistance and the terms on which residents may receive the assistance.

34 Basis for working out prospective financial information

- (1) This regulation applies if a disclosure statement includes prospective financial information (within the meaning given by generally accepted accounting practice) that is personal to the intending resident.
- (2) The statement must also include the principal assumptions and methods used in working out the information.

35 Details relating to certain security interests

If the holder of a security interest to whom section 12(1)(b) of the Act applies has refused to consent to the registration of a retirement village, a disclosure statement relating to the village must include—

- (a) the name and address of the holder; and
- (b) a description of the nature of the interest; and
- (c) details of the amounts secured by the interest.

*Other requirements for disclosure statements***36 No statement about entry into occupation right agreement being safe or free from risk**

A disclosure statement must not contain a statement to the effect that entering into an occupation right agreement relating to a retirement village is safe or free from risk.

*Required attachments to disclosure statements***37 Documents to be made available**

- (1) The following must be made available to the resident or his or her personal representative:
 - (a) the most recent audited financial statements that—
 - (i) relate to the operator of the village; and
 - (ii) comply with the Financial Reporting Act 1993, if that Act applied to the operator during the period to which the statements relate; and
 - (b) if that Act requires preparation of financial statements in respect of the village, the most recent audited financial statements in respect of the village that comply with that Act.
- (2) However, if there are no audited financial statements relating to the operator and a period during which the operator carried on the business of the village, financial statements that meet the requirements in Schedule 6 must be made available.
- (3) The certificate and financial statements must not contain any information that is likely to deceive or mislead.
- (4) The following must also be made available:
 - (a) a copy of the rules (if any) that apply specifically to the village and affect a resident in living in or using a residential unit in the village; and
 - (b) a copy of the agreement (if any) between the operator of the village and the manager (if any) of the village for the management of the village; and
 - (c) a copy of the deed of supervision (if any) between the operator of the village and the statutory supervisor.

*Presentation of disclosure statement and attachments***38 Presentation of disclosure statements and documents**

- (1) A disclosure statement and each document to be made available under regulation 37 must—
 - (a) be legibly printed or typewritten and in a large font on white or light-coloured A4 paper of medium weight and good quality; and
 - (b) be securely fastened together; and
 - (c) have sequentially numbered pages.

- (2) Information that is included in a disclosure statement is limited to matters required to be included by the Act, regulations made under the Act, or a code of practice.

Subpart 3—Advertisements

39 Statements about operator's assets

- (1) An advertisement must not state the amount of assets, or net assets, of 1 or more persons.
- (2) However, the advertisement may state the amount shown as the amount of the total assets, or net assets, of the operator of the retirement village in the most recent audited statement of the operator's financial position dated within 18 months of the distribution of the advertisement, if the advertisement states the date as the date at which the amount was worked out.
- (3) If the advertisement states the amount of the total assets of the operator, the advertisement must also state with equal prominence the amount of the operator's total liabilities shown in the statement of financial position.

40 Statements about capital

- (1) An advertisement must not state the amount of the authorised capital or issued capital of a company registered under the Companies Act 1993 unless—
 - (a) that amount is described as such; and
 - (b) the advertisement also states with equal prominence, and describes as such, the amount of the capital of the company that is credited as paid up.
- (2) An advertisement must not state the number of shares issued by another body corporate unless the advertisement also states the amount credited as paid up for the shares.

41 Statements about security of right to occupy unit in retirement village

An advertisement must not refer to a right to occupy a residential unit in a retirement village without also stating—

- (a) that the right is unsecured; or
- (b) the nature and ranking in point of security of the right.

42 Statements about entry into occupation right agreement being safe or free from risk

An advertisement must not contain a statement to the effect that entering into an occupation right agreement relating to a retirement village is safe or free from risk.

43 Prospective financial information

- (1) An advertisement (except a disclosure statement) must not contain prospective financial information unless the advertisement refers to the relevant disclosure statement and either—
- (a) the information is also contained in the disclosure statement; or
 - (b) the information is personal to the person to whom the advertisement is distributed and the principal assumptions and methods used in working out the information are set out in the disclosure statement.
- (2) In this regulation, **prospective financial information** has the meaning given to it under generally accepted accounting practice.

Subpart 4—Voidance of occupation right agreements**44 Rate of interest payable if occupation right agreement avoided**

For the purposes of section 31(2)(b) of the Act, the rate of interest is the same as the prescribed rate as defined in section 87(3) of the Judicature Act 1908.

Part 5**Provisions relating to statutory supervisors****Subpart 1—Information and provisions to be included in deeds of supervision****45 Information to be contained in deed**

A deed of supervision relating to a statutory supervisor of a retirement village must include all the following information:

- (a) the identity of the operator of the village;
- (b) the identity of the statutory supervisor;
- (c) a description of the village and the residential units, services, and facilities, at the village;

- (d) a description of the liabilities of the operator of the village:
- (e) an indication whether the village is complete and of the operator's plans (if any) for altering or developing the village:
- (f) a description of the ownership structure of the village:
- (g) a description of rights to occupy residential units at the village, including their number and a description of—
 - (i) the general terms on which the operator will offer such rights; and
 - (ii) the residents who may have such rights; and
 - (iii) whether and how 2 or more persons may hold such a right; and
 - (iv) the possibility of securing borrowings against the rights; and
 - (v) the circumstances and manner in which the rights may be terminated or transmitted or an occupation rights agreement replaced by a new one; and
 - (vi) amounts that become payable on the termination or transmission of such a right:
- (h) a description of the liabilities (if any) of residents of the village arising from the insolvency of the operator or village, or the winding up of the operator or village:
- (i) a description of the following matters relating to meetings of residents of the village (other than meetings covered by regulation 53):
 - (i) the frequency of meetings:
 - (ii) the procedure for convening and holding meetings:
 - (iii) the business to be conducted at meetings:
 - (iv) the voting rights of residents.

Subpart 2—Provisions to be included in deeds of supervision

46 Provisions mainly about statutory supervisor

A deed of supervision relating to the statutory supervisor of a retirement village must include provisions that do the following:

- (a) set the statutory supervisor's remuneration and costs:

- (b) deal with matters relating to the termination of the statutory supervisor's appointment and an election not to renew the appointment.

47 Provisions containing statutory powers and duties

- (1) A deed of supervision relating to the statutory supervisor of a retirement village must contain provisions setting out the statutory supervisor's obligations under the Act, including, but not limited to, the following provisions:
 - (a) section 24 (receiver, liquidator, and statutory manager must ask statutory supervisor to represent residents):
 - (b) section 33(2)(b) (resident entitled to bring an allegation of breach of a right referred to in the code of residents' rights to the attention of the statutory supervisor):
 - (c) section 34(2) (operator must notify statutory supervisor of certain matters relating to occupancy rights):
 - (d) section 39 (registrar's consent required for termination or non-renewal of appointment):
 - (e) section 40 (operator must not indemnify or exempt statutory supervisor from liability):
 - (f) section 42 (duties of statutory supervisor):
 - (g) section 43 (powers of statutory supervisor):
 - (h) section 44 (public statement by statutory supervisor):
 - (i) section 46 (statutory supervisor may require information):
 - (j) section 47 (auditor must answer questions and supply information):
 - (k) section 55 (operator must notify statutory supervisor of certain disputes):
 - (l) section 92 (status of code of practice):
 - (m) section 97 (registrar's powers of inspection):
 - (n) section 98 (disclosure of information and reports):
 - (o) Schedule 4, clause 4 (resident's right to complain to the operator and to receive a response within a reasonable time).
- (2) A deed of supervision relating to the statutory supervisor of a retirement village must include provisions setting out the operator's obligations under the Financial Reporting Act 1993.
- (3) A deed of supervision relating to the statutory supervisor of a retirement village must contain a provision stating that—

- (a) the statutory supervisor must exercise reasonable care and skill to ascertain whether the financial position of the retirement village, the security interests of the residents, and the management of the retirement village are adequate; and
- (b) if a statutory supervisor believes that they are inadequate, the statutory supervisor must do everything that he or she is empowered to do under section 43 of the Act unless he or she is satisfied that the inadequacy does not materially prejudice the interests of the residents of the village.

48 Provisions acknowledging other duties of operator

A deed of supervision relating to the statutory supervisor of a retirement village must include provisions acknowledging the duties of the operator of the village, under occupation right agreements relating to the village,—

- (a) to keep the village in good condition and order; and
- (b) to make and adhere to a long-term plan for maintaining and refurbishing the village and its facilities; and
- (c) to insure the village, for its full replacement value, to the satisfaction of the statutory supervisor of the village.

49 Provisions imposing requirements on operator

A deed of supervision relating to the statutory supervisor of a retirement village must include provisions requiring the operator of the village—

- (a) to use reasonable care and skill in ensuring that the affairs of the village are conducted properly and efficiently; and
- (b) to use reasonable care and skill in the exercise and performance of the operator's powers, functions, and duties; and
- (c) to account properly for all money received by the operator; and
- (d) to keep with 1 or more financial institutions accounts in the name of the village; and
- (e) to pay into any such account money received by the operator in connection with the village; and
- (f) to give the statutory supervisor specified information (including financial information) relating to the village

- in a specified form at specified times without a request from the statutory supervisor; and
- (g) to accept the statutory supervisor as a representative of the interests of the residents of the village in any matter relating to the village; and
 - (h) to comply with the operator's obligations under the Act, regulations made under the Act, and the code of practice.

50 Provisions limiting operator's dealings

- (1) A deed of supervision relating to the statutory supervisor of a retirement village must include provisions setting out the terms on which the operator of the village is to do the following:
- (a) advertise rights to occupy a residential unit in the village:
 - (b) delegate the operator's powers and functions:
 - (c) make a distribution to a person if the person and the operator are associated persons:
 - (d) engage in a transaction with a person if the person and the operator are associated persons:
 - (e) engage staff:
 - (f) engage, pay, and remove a manager for the village:
 - (g) set and change fees and charges for residents and intending residents:
 - (h) borrow:
 - (i) give guarantees:
 - (j) give a security interest relating to the village:
 - (k) dispose of the village or part of it (except residential units in the village):
 - (l) alter the effective control of the village:
 - (m) wind up the village:
 - (n) develop or redevelop the village.
- (2) In this regulation, **associated persons** has the meaning given by section OD 8(1) of the Income Tax Act 2004.

51 Provisions requiring statutory supervisor's consent to activities

A deed of supervision relating to the statutory supervisor of a retirement village must include provisions that do all of the following:

- (a) require the operator not to undertake or permit any of the following activities without the statutory supervisor's consent:
 - (i) activities described in regulation 50(1)(i) to (n):
 - (ii) specified activities relating to the operation, ownership, or control of the village; and
- (b) require the statutory supervisor not to withhold approval unreasonably; and
- (c) indicate the kind of conditions (if any) to which the statutory supervisor's approval may be subject.

52 Provisions for statutory supervisor's stakeholder role

A deed of supervision relating to the statutory supervisor of a retirement village must include provisions for—

- (a) the manner in which payments of capital sums, and payments described in section 42(a) of the Act, are to be handled; and
- (b) the manner in which records of that handling and of related matters (such as interest on the payments and the payers' tax file numbers) are to be kept; and
- (c) the process for refunding to a former resident payments made in relation to the occupation right agreement that was—
 - (i) cancelled as described in section 28 of the Act; or
 - (ii) avoided under section 31 of the Act (whether or not the operator disputes the avoidance, either by giving a dispute notice as described in that section or otherwise); or
 - (iii) terminated in accordance with the agreement.

53 Provisions about communications with residents

- (1) A deed of supervision relating to the statutory supervisor of a retirement village must include provisions that do all of the following:

- (a) entitle the statutory supervisor to receive every communication from the operator relating to the village that a resident of the village is entitled to receive;
- (b) permit the statutory supervisor, or a person authorised by the statutory supervisor, to attend a meeting of the residents of the village and to be heard in any discussion

- at the meeting of a matter concerning the statutory supervisor or the residents:
- (c) permit the statutory supervisor to call a meeting of the residents of the village—
 - (i) on the statutory supervisor's own initiative or at the request of the operator; and
 - (ii) in the way described in subclause (2); and
 - (iii) for the purpose of the residents giving the statutory supervisor their opinions or directions relating to the exercise of the statutory supervisor's powers:
 - (d) require the statutory supervisor to call a meeting of the residents of the village—
 - (i) at the request of at least 10% of the residents; and
 - (ii) in the way described in subclause (2); and
 - (iii) for the purpose of the residents giving the statutory supervisor their opinions or directions relating to the exercise of the statutory supervisor's powers:
 - (e) require a meeting of the residents of the village called by the statutory supervisor to be chaired by a person appointed by—
 - (i) the statutory supervisor; or
 - (ii) if the statutory supervisor does not appoint a chair, the majority of the residents of the village who are at the meeting.
- (2) The way of calling a meeting is to provide written notice of it to each resident of the village in accordance with section 106 of the Act at least 10 working days before the meeting.

54 Provisions about supervising termination of occupation right agreements

A deed of supervision relating to the statutory supervisor of a retirement village must include provisions that—

- (a) specify arrangements for the statutory supervisor's supervision of the process to be followed before the termination of an occupation right agreement by the operator of the village; and
- (b) require the operator of the village, before terminating an occupation right agreement, to give the statutory supervisor enough information to satisfy the supervisor that

the termination will be done in accordance with the agreement and the deed of supervision.

Subpart 3—Exemption from appointing statutory supervisor

55 Criteria for exemption from having to appoint statutory supervisor

The criteria that the Registrar must consider when deciding whether to grant an exemption under section 41 of the Act from the requirement for the operator of a retirement village to appoint a statutory supervisor are—

- (a) in the case of an application in respect of a village in operation, that there are no current or reasonably foreseeable risks to the interests of the residents:
- (b) in the case of an application in respect of a village that is not yet in operation, that the intended manner of creation and operation of the village will not create any reasonably foreseeable risk to the interests of the residents:
- (c) in respect of any village, that the interests of the residents are not and will not be subject to risk from any debt or other financial liability of the village or operator to any other person:
- (d) in respect of any village that has residents at the time of application, that all residents have been notified of the application for exemption and whether any resident has advised the Registrar of any real, current, or reasonably foreseeable risk to their interests:
- (e) in respect of any village that has residents at the time of application, the nature and extent of the control held by residents of the management of the village:
- (f) in respect of any village, that it is otherwise undesirable to appoint a statutory supervisor because the interests of the residents would or might be detrimentally affected by the appointment of a statutory supervisor without an equivalent or greater benefit from such appointment.

Subpart 4—Extra duties of statutory supervisors

56 Extra duties of statutory supervisors

A statutory supervisor of a retirement village must—

- (a) supervise the process to be followed before the termination of an occupation right agreement by the operator of the village; and
- (b) accept a request under section 24 of the Act (receiver, liquidator, and statutory manager must ask statutory supervisor to represent residents).

r 4(1)

Schedule 1

Forms to be given to Registrar

Form 1

Application for registration of retirement village
Section 10(2), Retirement Villages Act 2003

Village

Name of village: *[insert name]*.

Street address of village: *[insert street address]*.

Address of registered office of village: *[insert address, which must be a physical address in New Zealand and must not be a post office box or private bag address]*.

Address for service of village: *[insert address, which must be a physical address in New Zealand and must not be a post office box or private bag address]*.

Postal address of village: *[insert postal address]*.

Email address for village: *[insert email address]*.

Telephone number for village: *[insert telephone number]*.

Fax number for village (optional): *[insert fax number, if desired]*.

The village comprises: *[insert a full legal description of the part of the property, building, or premises comprising the retirement village, including references to all relevant computer registers and all relevant certificates of title (if any)]*.

The details of each holder of a security interest relating to the village are as follows: *[insert name and address of each holder]*.

Form 1—*continued***Operator**

Name of operator: *[insert name of each operator of the village]*.

Company or other registration number (if any): *[insert registration number for each operator of the village]*.

Nature of operator: *[describe the nature of each operator of the village, eg, company, natural person]*.

Address of registered office of operator: *[for each operator of the village, insert address, which must be a physical address in New Zealand and must not be a post office box or private bag address]*.

Address for service of operator: *[for each operator of the village, insert address, which must be a physical address in New Zealand and must not be a post office box or private bag address]*.

Postal address of operator to which communications from the Registrar may be sent: *[insert address for each operator of the village]*.

Email address of operator: *[insert email address for each operator of the village]*.

Telephone number of operator: *[insert telephone number for each operator of the village]*.

Fax number of operator (optional): *[insert fax number for each operator of the village, if desired]*.

Dated: *[insert date]*.

Signed: *[insert signature for each operator of the village]*.

Name of operator: *[insert name of each operator of the village]*.

Person completing form

Name of person completing form: *[insert name]*.

Address of person completing form: *[insert address]*.

Email address of person completing form: *[insert email address]*.

Telephone number of person completing form: *[insert telephone number]*.

Fax number of person completing form (optional): *[insert fax number, if desired]*.

This form must be accompanied by all the things described in section 10(2) of the Retirement Villages Act 2003.

Form 2
Annual return and certificate of registered documents
Sections 13(2) and 16, Retirement Villages Act 2003

Village

Name of village: *[insert name]*.

Registration number of village: *[insert registration number]*.

Street address of village: *[insert street address]*.

Address of registered office of village: *[insert address, which must be a physical address in New Zealand and must not be a post office box or private bag address]*.

Address for service of village: *[insert address, which must be a physical address in New Zealand and must not be a post office box or private bag address]*.

Postal address of village: *[insert postal address]*.

Email address for village: *[insert email address]*.

Telephone number for village: *[insert telephone number]*.

Fax number for village (optional): *[insert fax number, if desired]*.

Operator

Name of operator: *[insert name of each operator of the village]*.

Company or other registration number (if any): *[insert registration number for each operator of the village]*.

Nature of operator: *[describe the nature of each operator of the village, eg, company, natural person]*.

Address of registered office of operator: *[for each operator of the village, insert address, which must be a physical address in New Zealand and must not be a post office box or private bag address]*.

Address for service of operator: *[for each operator of the village, insert address, which must be a physical address in New Zealand and must not be a post office box or private bag address]*.

Postal address of operator to which communications from the Registrar may be sent: *[insert address for each operator of the village]*.

Email address of operator: *[insert email address for each operator of the village]*.

Form 2—*continued*

Telephone number of operator: [*insert telephone number for each operator of the village*].

Fax number of operator (optional): [*insert fax number for each operator of the village, if desired*].

Certificate of registered documents

This is to confirm that each registered document for [*insert name of the village*] is correct, current, and not likely to mislead or deceive any resident, intending resident, or the public.

Date and signature

Dated: [*insert date*].

Signed: [*insert signature for each operator of the village*].

Name of operator: [*insert name of each operator of the village*].

Person completing form

Name of person completing form: [*insert name*].

Address of person completing form: [*insert address*].

Email address of person completing form: [*insert email address*].

Telephone number of person completing form: [*insert telephone number*].

Fax number of person completing form (optional): [*insert fax number, if desired*].

This form must be accompanied by all of the things required by section 13(3)(b) to (d) of the Retirement Villages Act 2003.

Form 3
Change of circumstances
Section 17(1) and (2)(b), Retirement Villages Act 2003

Village

Name of village: *[insert name]*.

Registration number of village: *[insert registration number]*.

This is to advise the Registrar of the following †change/changes in circumstances for this retirement village:

- * (a) a material change to any of the registered documents: *[list document(s) and describe the change(s)]*
- * (b) a material change to the information contained in any registered document: *[list document(s) and describe the change(s)]*
- * (c) a change of circumstances that makes any registered document likely to be misleading or deceptive to any resident, any intending resident, or the public: *[list document(s) and describe the change(s)]*
- * (d) a change—
 - * (i) of any operator of the retirement village (whether as a result of the sale or other disposal of the retirement village or otherwise): *[list details of change]*
 - * (ii) of the controlling interests in any operator of the retirement village (whether as a result of the sale of shares in the operator or otherwise): *[list details of change]*
 - * (iii) to the name or address of any operator of the retirement village: *[list details of change]*.

The date of each change †is/was: *[insert date of each change]*.

*The †change affects/changes affect the description of the village mentioned in section 10(2)(b) of the Retirement Villages Act 2003 as follows: *[describe the change(s) in terms of which computer registers and certificates of title become or cease to be relevant to the description]*.

*The †change involves/changes involve a person holding a security interest as follows: *[list the names and addresses of each person involved, and describe how each person is involved (eg, by starting or ceasing to hold the security interest)]*.

Form 3—*continued***Date and signature**Dated: *[insert date]*.Signed: *[insert signature for each operator of the village]*.Name of operator: *[insert name of each operator of the village]*.**Person completing form**Name of person completing form: *[insert name]*.Address of person completing form: *[insert address]*.Email address of person completing form: *[insert email address]*.Telephone number of person completing form: *[insert telephone number]*.Fax number of person completing form (optional): *[insert fax number, if desired]*.

†Delete whichever of these does not apply.

*Delete this if it does not apply.

Form 4

Request for cancellation of registration
*Section 19(1)(a), Retirement Villages Act 2003***Village**Name of village: *[insert name]*.Registration number of village: *[insert registration number]*.Please cancel the registration of *[insert name of village]*.

All residents of the village have received independent legal advice about the effects of cancellation of registration.

At least 90% of those residents have consented in writing to that cancellation.

The cancellation will affect the following certificates of title and computer registers: *[describe the certificates of title and computer registers]*.**Date and signature**Dated: *[insert date]*.Signed: *[insert signature for each operator of the village]*.

Form 4—continued

Name of operator: *[insert name of each operator of the village]*.

Person completing form

Name of person completing form: *[insert name]*.

Address of person completing form: *[insert address]*.

Email address of person completing form: *[insert email address]*.

Telephone number of person completing form: *[insert telephone number]*.

Fax number of person completing form (optional): *[insert fax number, if desired]*.

Form 5

Application for exemption from requirement for
statutory supervisor

Section 41(2)(a), Retirement Villages Act 2003

Village

Name of village: *[insert name]*.

Registration number of village: *[insert registration number]*.

Please exempt *[name of each operator of the village]* from appointing a statutory supervisor for the village, as the appointment is unnecessary for the protection of residents' interests or is undesirable.

The following information supports this application: *[set out information]*.

Date and signature

Dated: *[insert date]*.

Signed: *[insert signature for each operator of the village]*.

Name of operator: *[insert name of each operator of the village]*.

Person completing form

Name of person completing form: *[insert name]*.

Address of person completing form: *[insert address]*.

Email address of person completing form: *[insert email address]*.

Form 5—*continued*

Telephone number of person completing form: [*insert telephone number*].

Fax number of person completing form (optional): [*insert fax number, if desired*].

Form 6

Change of village's registered office or address for service
Sections 95(2) and 96(4), Retirement Villages Act 2003

Village

Name of village: [*insert name*].

Registration number of village: [*insert registration number*].

Street address of village: [*insert address*].

*The registered office of the village is to change to [*describe new registered office*] on [*insert date, which must be at least 5 working days after this notice is registered*].

*The address for service of the village is to change to [*insert new address for service*] on [*insert date, which must be at least 5 working days after this notice is registered*].

Date and signature

Dated: [*insert date*].

Signed: [*insert signature for each operator of the village*].

Name of operator: [*insert name of each operator of the village*].

Person completing form

Name of person completing form: [*insert name*].

Address of person completing form: [*insert address*].

Email address of person completing form: [*insert email address*].

Telephone number of person completing form: [*insert telephone number*].

Fax number of person completing form (optional): [*insert fax number, if desired*].

*Delete this if it does not apply.

r 13

Schedule 2
Certificate by lawyer advising intending resident

Form

Certificate by lawyer advising intending resident

*Section 27(5), Retirement Villages Act 2003*Name of village: *[insert name]*.Registration number of village: *[insert number]*.I, *[insert name of lawyer]*, certify that—

- (a) I explained to *[insert name of intending resident or person treated by section 27(7) of the Act as the intending resident]* the general effect of the attached agreement and its implications before he or she signed the agreement; and
- (b) I gave the explanation in a manner and in language that was appropriate to the age and understanding of *[insert name of intending resident or person treated by section 27(7) of the Act as the intending resident]*.

Dated: *[insert date]*.Signed: *[insert signature of lawyer]*.Name: *[insert name of signatory]*.Street address: *[insert street address of lawyer, including the name of the organisation (such as firm or chambers) within which the lawyer works]*.Postal address: *[insert postal address of lawyer, including the name of the organisation (such as firm or chambers) within which the lawyer works]*.Email address: *[insert email address of lawyer]*.Telephone number: *[insert telephone number of lawyer]*.Fax number (optional): *[insert fax number for lawyer, if desired]*.

Schedule 3

r 17(2)(a)

Form of statement about statutory supervisors

Under the Retirement Villages Act 2003, the operator of a retirement village must appoint a statutory supervisor for the village unless the Registrar of Retirement Villages exempts the operator from the requirement.

The core duties of a statutory supervisor are to—

- (a) provide a stakeholder facility 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
 - (b) monitor the financial position of the retirement village; and
 - (c) report annually to the Registrar and residents on the performance of its duties and the exercise of its powers; and
 - (d) perform any other duties that are imposed by the Act or any other Act, any regulations made under the Act, and any documents of appointment.
-

r 29(1)(c)

Schedule 4

Form of statement of information for intending residents

Important information for intending residents

Decisions about retirement villages are very important. They have long-term personal and financial consequences.

You should read this disclosure statement carefully.

This disclosure statement draws your attention to some of the important matters you should consider before deciding to enter a retirement village.

Ask questions.

You must obtain advice from a lawyer independent of the operator of the village before you sign an occupation right agreement (ie, a document that confers on any person the right to occupy a residential unit within the village and specifies any terms or conditions to which that right is subject).

It is common for there to be misunderstandings by residents and their families about—

- the kind of legal interest that the resident has in the village:
- what happens if the resident or their family wants to exit an occupation right agreement:
- the fees and charges that apply to entering, moving between units within, and leaving the village:
- the ongoing fees and charges.

It is important that you and your family understand what is involved in entering into an occupation right agreement to join a retirement village.

Although in most cases you will have 15 working days to cancel an occupation right agreement after signing it, you should consider the issues carefully before you sign any application form or agreement.

r 29(1)(g)

Schedule 5

Form of statement of information about avoiding occupation right agreement

Section 31 of the Retirement Villages Act 2003 gives you the right to avoid an agreement that you enter into for the right to occupy a residential unit in a retirement village, but only if you enter into the agreement in the circumstances described in a row of the table below and the circumstances involve—

- (a) a significant detriment to you; or
- (b) a material (not merely technical or minor) breach of the Act;
or
- (c) deliberate misconduct by the operator of the village.

You can use the right only by giving written notice to the operator of the village, and the statutory supervisor (if there is one) of the village, within the period described in the relevant row of the table.

Circumstances	Period
The village was not registered, but was required to be	3 years after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first
The registration of the village was suspended and the operator had been notified of the suspension	3 years after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first
The agreement did not contain, in clear and unambiguous form, the material it was required by the Act to contain	1 year after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first
You did not receive independent legal advice before entering into the agreement	1 year after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first
Before entering into the agreement, you did not receive a disclosure statement that complied with the Act, the residents' code of rights, the code of practice or a statement when the code would come into force, and a copy of the agreement	1 year after you entered into the agreement or 6 months after you knew, or ought to have known, the circumstances existed when you entered into the agreement, whichever ends first

You should seek legal advice before using the right.

If you use the right, you are entitled to a refund of some amounts you paid for the right to occupy the unit and for services or facilities that were not provided, interest on those amounts, and your actual and reasonable costs associated with using the right (such as legal expenses and removal costs).

The operator may dispute your use of the right, refer the dispute to a disputes panel under the Retirement Villages Act 2003, and refuse to pay the refund while the dispute is unresolved.

Schedule 6

r 37(2)

Requirements for financial statements if there are no audited statements

- 1 The financial statements must be tabulated if practicable.
- 2 The amounts in the financial statements must give a true and fair view of the results and state of affairs of the operator or the retirement village (as appropriate)—
 - (a) at a time that is specified in the statements and is not more than 6 months before the date of issue of the disclosure statement; and
 - (b) for the accounting period concerned.
- 3 The financial statements must include so much of the following as is known or as can be estimated:
 - (a) for the first accounting period ending after the date of issue of the disclosure statement,—
 - (i) the total operating revenues; and
 - (ii) the management expenses; and
 - (iii) the total interest expense; and
 - (iv) the net surplus or deficit before taking account of taxation and extraordinary items; and
 - (v) the total provided for, or credited by way of, taxation; and
 - (vi) the net surplus or deficit before taking account of extraordinary items; and
 - (vii) the total of any extraordinary items (net of taxation) that derive from events outside the ordinary activities of the operator or the retirement village (as appropriate); and
 - (viii) the net surplus or deficit after taking account of extraordinary items; and
 - (ix) the distributions or appropriations of the net surplus or deficit; and
 - (x) the amount of any expenditure on repairs and maintenance; and
 - (xi) the amount of any provision for repairs and maintenance or, if no provision has been made, a statement to that effect:

- (b) a description of the nature of any item that is of such incidence and size, or of such nature, that its disclosure is necessary to explain the performance of the operator or the retirement village:
- (c) the amounts showing—
 - (i) the total assets; and
 - (ii) the total tangible assets; and
 - (iii) the total liabilities; and
 - (iv) the total equity:
- (d) a forecast statement of operating expenditure for the operator or the retirement village (as appropriate) specifying the amounts that must be met by residents of the village for the first accounting period ending after the date of issue of the disclosure statement:
- (e) a forecast statement of all income and expenditure, including amounts repayable to holders of security interests relating to the retirement village in the first accounting period ending after the date of issue of the disclosure statement.

Martin Bell,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations come into force on 1 May 2007. They provide for—

- forms for applications and information to be given to the Registrar of Retirement Villages; and
- the period within which the operator of a retirement village is to certify the accuracy of registered documents; and
- the content of occupation right agreements; and
- the form of the certificate that the lawyer who witnesses the signature of the intending resident on an occupation right agreement has explained the effect of the agreement to the intending resident; and
- the content and form of disclosure statements and documents that must be attached to disclosure statements; and

- rules about advertising relating to rights to occupy residential units in retirement villages; and
- the rate of interest payable to a resident who avoids an occupation right agreement because it has been entered into in contravention of certain provisions of the Retirement Villages Act 2003; and
- the content of deeds of supervision; and
- the criteria for exempting the operator of a retirement village from having to appoint a statutory supervisor for the village; and
- extra duties of statutory supervisors.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 28 September 2006.

These regulations are administered by the Department of Building and Housing.
