

CLAUSE NOTES

Retirement Villages Amendment Bill 2023

PART 1

Clause 1 Short title

Specifies the name of the proposed Act.

Clause 2 Commencement

Provides for the Act to commence on a day to be proclaimed.

PART 2

Clause 3 Principal Act

Provides that the *Retirement Villages Act 2004* is the 'Principal Act' referred to under this Part.

Clause 4 Section 3 amended (Interpretation)

Provides that section 3 of the Principal Act is amended by inserting a definition of 'Tribunal'.

Clause 5 Section 14 amended (Meetings of residents and tenants)

Provides that section 14 of the Principal Act is amended by omitting subsections (10) and (11), as the subject matter of those subsections will be addressed in new sections being inserted into the Principal Act. In place of those subsections, the clause inserts new provisions requiring minutes to be kept of any meeting of residents and tenants convened by the operator.

Clause 6 Sections 14A, 14B and 14C inserted

This clause inserts three new sections into the Principal Act.

New section 14A will address the procedure for increases in recurrent charges. Subsection (2) outlines the circumstances in which recurrent charges may be increased, with (a) largely replicating the existing process but requiring a written explanation of the increase to be provided. Subsection (2)(b) introduces further restrictions for increases which exceed the consumer price index (CPI) increase amount. Such an increase must be authorised by a resolution of a majority of the residents or tenants voting personally or by proxy, or is permitted if the increase in excess of the CPI increase amount is attributable to the stated factors (such as an increase in rates, salaries, insurance excesses), or for a reason if prescribed in regulations.

Other subsections in proposed new section 14A address how the CPI increase amount is determined, outline the circumstances in which an offence is committed, and clarify that an increase not in accordance with the section, or allowed for by proposed new section 14B, is of no effect.

New section 14B provides an avenue for the operator of a retirement village to make an application to the Tasmanian Civil and Administrative Tribunal to consider approving an increase to recurrent charges where agreement is required of the residents and tenants, but agreement has not been given.

The section also provides that the *Tasmanian Civil and Administrative Tribunal Act 2020* applies to an application, other than specified clauses of Part 8 of Schedule 2 of that Act which are not relevant to the application. The section also provides the making of an order is within the original jurisdiction of the Tribunal.

New section 14C addresses the imposition of levies that are for a purpose not authorised by the village rules or the residence contract. In addition to being able to be imposed when authorised by special resolution, these levies will now be able to be imposed in further circumstances. The remaining subsections confirm that imposing a levy otherwise than in accordance with the section is an offence, and will result in the levy being of no effect.

Clause 7 Section 17 amended (Meeting with new operator)

Makes a consequential amendment to ensure section 17(1)(a) refers to the correct provision.

Clause 8 Schedule 2 substituted

Repeals current Schedule 2, so that it correctly refers to section 14C, reflecting the changes being made by clause 6 in relation to levies.

PART 3

Clause 9 Principal Act

Provides that the *Tasmanian Civil and Administrative Tribunal Act 2020* is the 'Principal Act' referred to under this Part.

Clause 10 Schedule 1 amended (Relevant Acts)

Inserts the *Retirement Villages Act 2004* into the list of 'relevant Acts' under the Principal Act (being a list of Acts which confer jurisdiction on the Tribunal).

Clause 11 Schedule 2 amended (General Division)

This clause, firstly, inserts the *Retirement Villages Act 2004* into the list of Acts in Part 1, Clause 1(1) of the Principal Act (those being Acts that are allocated to the General Division of the Tribunal).

The clause also inserts the *Retirement Villages Act 2004* into the list of Acts in Part 8, Clause 3 of the Principal Act (those being Acts that are allocated to the Resource and Planning stream of the General Division of the Tribunal).

PART 4

Clause 12 Repeal of Act

Provides for the repeal of the proposed Act on the first anniversary of the day on which it commences.