

# FACT SHEET

## *Retirement Villages Amendment Bill 2023*

The purpose of this Bill is to strengthen the regulatory framework for increases in recurrent charges, and the imposition of levies, on residents of retirement villages, consistent with the rights of residents, sustainability of operators, and interstate approaches.

### Recurrent fees

The Bill makes amendments to the current procedure for increasing recurrent charges. These amendments enhance transparency and accountability, providing clarity to both operators and residents around how recurrent fee increases should be approached. They include:

- Adding a new requirement that the operator of a retirement village must ensure that accurate minutes are kept of any meeting of residents and tenants convened by the operator; and make them available for inspection by residents of the retirement village; and arrange for the minutes to be adopted at the following meeting of residents and tenants convened by the operator.
- The operator must not increase recurrent charges unless the operator submits, to such a meeting, a written explanation that demonstrates that the increase in recurrent charges is reasonable in the circumstances, having regard to the accounts for the previous financial year and the estimates for the current financial year; and

The Bill also introduces restrictions on the imposition of fee increases above the rate of the Consumer Price Index percentage change over the preceding 12 months, only permitting such increases in the following circumstances:

- when authorised by a majority of the residents or tenants voting in person or by proxy;
- where the increase is in response to an increase in rates, taxes or charges in respect of the retirement village land;
- where the increase is due to an increase in the salaries or wages payable to staff under an award, agreement or other industrial instrument; or
- where the increase is due to an increase in insurance premiums or insurance excesses paid, in relation to the retirement village or its use.
- any other prescribed reason.

If the fee increase does not fit within one of the circumstances listed, the operator may apply to the Tasmanian Civil and Administrative Tribunal (TASCAT). TASCAT may authorise the fee increase in whole or in part, or not authorise a fee increase.

The operator of a retirement village must, as soon as reasonably practicable after making an application, give each resident and tenant of the retirement village a written notice of the making of that application. Interested residents and tenants can then be heard before TASCAT under the TASCAT legislation.

The Bill includes a list of factors TASCAT may consider in determining such an application. Some of the factors listed include:

- the general market level of recurrent charges paid at similar retirement villages in the same or a similar locality as the village;
- the level and cost of services and facilities provided for in estimates of expenditure for the current financial year;
- any proposed amendments (including additions) to the services and facilities to which the residents have consented or are necessary;
- the frequency and amount of past amendments of the recurrent charges;

### Levies

The Bill also further regulates the circumstances in which a levy, not authorised by the village rules or a residence contract, may be imposed. Currently, such a levy can only be imposed if authorised by special resolution, which requires more than 75% of votes cast personally or by proxy. While retaining the option of approving a levy via special resolution, the Bill allows a levy to be introduced, no more than once every 12 months, where necessary due to legislative amendments or the order of a court or tribunal.

### General

Apart from the amendments, the other provisions of the Act continue to apply, including Part 5 which provides for dispute resolution by the Director of Consumer Affairs and Trading.

The maximum penalty for non-compliance by an operator with requirements relating to recurrent charges and levies remains 200 penalty units, as it is currently is under the Act. The Bill clarifies that the increase of recurrent fees, or imposition of a levy, is of no effect if it is done contrary to the requirements of the relevant section.