**Transition table: Interim Code and RV Code**

| **Interim Code** **Clause**  | **RV Code Clause**  | **Interim Code Title** | **RV Code Title** | **Notes** |
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| ***Division 1 - Preliminary*** |
| 1.1 | 1 | Citation | Citation | This clause cites the full title of the Interim Code and the RV Code. |
| 1.2 | 2 | Application | Application | Clause unchanged |
| 1.3 | 3 | General principles | General principles | Clause unchanged |
| 1.4 | 4 | Objectives | Objectives of code | Clause unchanged except word ‘effective’ consultation as a new objective of the code inserted. (Final Report (FR) recs. 61 & 62) |
| 1.5 | 5 | Resident’s basic rights | Resident’s rights | Clause unchanged |
| ***Division 2 – Advertising and promotion of retirement villages*** |
| 2.1 | 6 | General | General | Clause unchanged |
| 2.2 | 7 | Retirement village developments | Retirement village developments | Clause unchanged |
| 2.3 | 8 | Proposed amenities and services | Proposed amenities and services | Clause unchanged. Equivalent provisions for personal amenities and communal amenities also inserted in RV Regulations – Reg. 7B, Table items 1Reg.7C[[1]](#footnote-1), Table items 1 & 3 |
| 2.4 | 9 | Approvals for facilities that provide residential aged care services | Approvals for facilities that provide residential aged care services | Clause unchanged |
| 2.5 | 10 | Access to residential aged care services | Access to residential aged care services | The statement on the terms of access to residential aged care services has been revised and moved to RV Regulations at Schedule 2 Item 1. (FR rec. 4, 1st dot point) |
| ***Divisions 3 – Prospective resident’s right before entering into a (residence or) service contract*** |
| 3.1 | N/A | Before entering into a residence contract | Repealed from Code transferred to RV Regs. | Clause largely unchanged – reference to reserve fund budget and audited financial statements inserted, RV Regulations Reg. 6[[2]](#footnote-2) |
| 3.2 | 11 | Before entering into a service contract | Before entering into a service contract | Clause unchanged, except that for consistency with timeframes in RV Act i.e. 5 working days has changed to 10 working days  |
| ***Division 4 – Residence contract and Service contract*** |
| 4.1 | 12 | Legibility and presentation requirements | Legibility and presentation requirements | Clause unchanged except that references to residence contract have been removed because now in RV Regs (see Reg.4B[[3]](#footnote-3)) |
| 4.2 | n/a | Title and tenure | Repealed from Code and transferred to RV Regs.  | Reg.7A[[4]](#footnote-4), Table items 7 & 8 |
| 4.3 | n/a | Residential premises | Repealed from Code and transferred to RV Regs. | Reg.7A, Table items 9, 12 and 13, reg. 7B[[5]](#footnote-5), Table item 6, reg.7C[[6]](#footnote-6), Table items 1 & 3 |
| 4.4 | n/a | Amenities | Repealed from Code and transferred to RV Regs. | Reg. 7A, Table items 9 & 12, reg. 7B, Table items 1 & 2, reg. 7C, Table item 1, reg. 7F, Table items 1 and 2(a) &(d). (FR Recs. 2, 37) |
| 4.5 | 13  | Services | Services (provisions also transferred to RV Regs). | Definition of the term ‘personal services’ added in the RV Code. The term includes services and amenities but excludes communal amenities and village administrative and management services. Equivalent provisions also in RV Regs for personal services and communal services provided under the residence contracts. Reg. 7D[[7]](#footnote-7), Table items 1, 2 and 6 plus definitions in reg. 4A & reg. 7E[[8]](#footnote-8), Table items 1 & 2 (FR Recs. 2, 37) |
| 4.6 | n/a | Payment of Premium and refund entitlement | Repealed from Code and transferred to RV Regs. | Reg.7F[[9]](#footnote-9), Table items 1 & 2 (FR Rec. 88) |
| 4.7 | n/a | Charges for village operating costs | Repealed from Code and transferred to RV Regs. | Reg. 7F, Table items 3 and 4 (FR Rec. 52 (last dot point)) |
| 4.8 | n/a | Reserve funds | Repealed from Code and transferred RV Regs. | Reg. 7F, Table items 5 and 6(FR recs. 52, 53, 54) |
| 4.9 | n/a | Relocation | Repealed from Code **not** transferred to RV Regs. | This has been deferred to Tranche 2 as the issue overlaps with a range of other issues to be considered in Tranche 2 such as consultation with residents about redevelopment of an RV |
| 4.10 | n/a | Termination of residence contract and fees payable on termination | Repealed from Code and transferred to RV Regs. | Reg. 7A, Table items 16 & 17 & reg. 7F Table item 2(c) (FR recs. 73, 74, 75) |
| 4.11 | n/a | Residence contract to refer to this Code and the *Retirement Villages Act 1992* | Repealed from Code and transferred to RV Regs. | Reg 7A, Table item 5 |
| ***Division 5 – Village management*** |
| 5.1 | 14 | Interpretation | Terms used | RV Code includes definitions of the terms ‘Australian Accounting Standards’, ‘Australian Accounting Standards Board’, ‘notes’, ‘reserve fund’, and ‘secret ballot’. |
| 5.1(2) | 15 | Special resolutions | Special resolutions | Clause unchanged. New Guidelines inserted in Grey Box.  |
| 5.2 | 16 | Management procedures and resident consultation | Management procedures and resident consultation | New clauses inserted in 16(1) regarding an administering body establishing consultation procedures on the day-to-day running of the RV and for consulting with the residents’ committee under cl. 24. Reference to a reserve fund budgets also inserted in cl. 16(2). All other clauses are substantively the same.(FR Recs. 40, 52, 61, 62) |
| 5.3 | 17[[10]](#footnote-10) | Village operating budget | Village budget | RV Code retains the requirements in cl. 5.3 and inserts specific budget line items that must be presented in relation to the village operating budget. Some of these were already referenced in cl. 5.3 or in the ‘Model proposed operating budget’ at Appendix 2 to the Interim Code. Provisions for a reserve fund budget have been inserted for those villages that have a reserve fund to which residents contribute. (FR recs. 52, 54) |
| 5.4 | 18 | Quarterly operating income and expenditure statements | Quarterly financial statements | Within the context of existing requirements in clause 5.4 of the Interim Code and the ‘Model quarterly income and expenditure statement’ at Appendix 3 and the ‘Model reserve fund quarterly income and expenditure statement’ at Appendix 4 of the Interim Code, the RV Code clarifies the financial reporting requirements for quarterly financial statements (for operating accounts and reserve funds) by cross-referencing back to the line items referenced in the budget. Provisions have been inserted for notes (clause 18(6)) to be included disclosing particular matters that are relevant to residents’ understanding quarterly financial reports. (FR recs. 52, 54) |
| 5.5 | 19 | Annual accounts | Annual financial statements | Clause 5.5 of the Interim Code currently requires residents to be provided with ‘a written presentation of the operating financial position of the retirement village as at the end of the previous financial year’. The RV Code builds on the existing requirements in clause 5.5 by referencing both the actual and budget amounts for each line item that was included in the proposed operating budget under clause 17(3). Provisions have also been inserted for notes, including notes disclosing ‘the opening balance of the accumulated surplus or deficit as at the beginning of the financial year; and the closing balance of the accumulated surplus or deficit as at the end of the financial year after adjustment for the surplus or deficit for the financial year – as shown in the statement of income and expenditure’. Provision has also been made for statements to be audited on an annual basis except where residents have resolved under clause 19(10) that the statements for a particular financial year are not required to be audited. (FR rec. 43) |
| 5.6 | 20 | Budget surplus | Budget surplus | Clause unchanged except that the reference to a residence contract ‘providing otherwise’ has been removed so that residence contracts cannot provide a mechanism by which a surplus can be used for another purpose without the approval of the residents who contributed to the surplus. (FR Rec. 41) |
| 5.7 | 21 | Marketing of residential premises | Marketing of residential premises | Clause unchanged. Words added to clarify that clause only applies where a resident is required to contribute in whole or part to the expenses incurred for marketing the premises. |
| 5.8 | 22 | Repair and refurbishment of residential premises | Refurbishment of residential premises | Clause 22 builds on the existing framework in clause 5.8 of the Interim Code by inserting a definition of ‘refurbishment work’ to reference ‘returning premises to a reasonable condition’ and introducing requirements for written statements and estimates to be given to residents before the commencement of refurbishment work. Provision is also made giving residents the capacity to inspect the works prior to paying for them and expanding the grounds on which refurbishment disputes can be taken to the State Administrative Tribunal. (FR recs. 76, 77) |
| 5.9 | 23 | Residence rules | Residence rules | Clause unchanged except that clause 5.9(6) of the Interim Code has been removed due to the code of practice being legislation that governs the industry conduct not individual consumers. |
| 5.10 | 24 | Residents’ committee | Residents’ committee of retirement village residents | Clause unchanged in substance. Has been some re-arranging of clauses and minor reworking of some clauses and some clauses have had additional words inserted to clarify the intention without changing the substance. (FR Rec. 61) |
| n/a | 25 | n/a | Incorporated association formed to carry out function of residents’ committee | New clause which enables residents to confer the function of a residents’ committee on an incorporated association. (FR rec. 61 3rd dot point) |
| 5.11 | 26 | Residents’ meetings | Residents’ meetings | Existing clause 5.11 unchanged in substance. Additional clauses have been inserted to: * clarify the rights of residents to meet on any issue (cl.26(4));
* insert a mechanism for a nominated resident at a meeting to provide residents with copies of any special resolution passed at the meeting;
* provide a process by which residents can obtain a copy of a special resolution passed at a meeting on request from the administering body or from the resident who holds a copy of the special resolution;
* clarifying that voting at a meeting may be by secret ballot;
* clarifying the capacity for an administering body to be present at a meeting at which a special resolution is to be held;
* clarifying the capacity for residents to decide by a majority of those present that the administering body must leave the meeting at which a special resolution is to be held.
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| 5.12 | 27 | Proxy voting | Proxy voting | Existing clause 5.12 unchanged except that definitions of the terms ‘close associate’ in relation to an administering body, ‘proxy notice’, ‘related body corporate’ and ‘voting resident’ have been inserted. |
| n/a | 28 | n/a | Voting by secret ballot | New clause inserted to enable voting by secret ballot if more than one resident or proxy at a meeting of the residents calls for, or supports, a secret ballot. RV Code includes guidelines on how a secret ballot may be conducted. (FR rec. 64) |
| ***Division 6 – Dispute resolution*** |
| 6.1 | 29 | Interpretation | Terms used | Clause 6.1 unchanged except definition of the term ‘retirement village dispute’ inserted. The definition clarifies that the dispute process in the Code does not apply to a dispute that may be determined by the State Administrative Tribunal under the *Retirement Villages Act 1992*. |
| 6.2 | 30 | Village dispute process | Village dispute resolution process | Clause 6.2 unchanged except for minor reworking & re-ordering of some clauses. Clause 6.2(a) has been amended slightly to clarify that when nominating a person to assist the parties to resolve the dispute the person must be acceptable to all parties. (FR rec. 68) |
| 6.3 | 31 | Mediation of dispute | Mediation of dispute | Clause 6.3 unchanged. |
| n/a | 32 | n/a | Costs associated with dispute resolution process | Clause 32 has been inserted to clarify who is responsible for the costs incurred in relation to the dispute process under clause 30.  |
| n/a | 33 | n/a | Costs associated with Commissioner – appointed mediation | Clause 33 has been inserted to clarify that the costs of a mediation are to be shared equally between each of the parties to the dispute unless the Commissioner decides otherwise. In relation to the administering bodies share of those costs there is also a prohibition on the administering body recovering those costs from a resident or former resident or any other costs incurred as a result of the mediation of a dispute under clause 31.  |
| ***Division 7 – Termination of residence contracts*** |
| 7.1 | 34 | Notice of intention to terminate | Notice of intention to terminate | Clause unchanged. |
| ***Division 8 – Miscellaneous / Service of documents*** |
| 8.1 | 35 | Service of documents | Service of documents | Clause unchanged. |
| ***Division 9 Transitional and saving*** |
| n/a | 36 | n/a | Residence and service contracts | RV Code provides that Divisions 3 and 4 of the Interim Code (i.e. clauses 3.1, 3.2, 4.1, 4.2, 4.3, 4.4 and 4.5) will continue to apply to residence contracts and service contracts until 1 October 2015. This links to the transfer of those provisions to the RV Regulations and the commencement of those regulations containing the transferred provisions on 1 October 2015. |
| n/a | 37 | n/a | When accounting and financial reporting provisions start to apply to existing retirement villages | RV Code gives operators of existing retirement villages time (to 1 July 2016) to transition their budget, quarterly and annual financial statements and consultation processes to comply with clauses 17, 18 and 19 of theRV Code. The provision also references that clauses 5.1 to 5.6 of the Interim Code will continue to apply to a retirement village in respect of the 2015/16 financial year as if those regulations had not been repealed.  |
| Appendix 1 | Appendix 1 | Checklist for prospective resident | Checklist for prospective resident | RV Code contains minor changes (e.g whether pets are allowed in the village). |
| Appendix 2 | n/a | Model proposed operating budget form | Repealed | Clauses 17, 18 and 19 in the RV Code clarify budget reporting requirements. |
| Appendix 3 | n/a | Model quarterly income and expenditure statement | Repealed | Clause 18 in the RV Code clarifies requirements for quarterly statements. |
| Appendix 4 | n/a | Model reserve fund quarterly income and expenditure statement | Repealed | Clauses 17, 18 and 19 in the RV Code clarify requirements for reserve fund reporting. (FR rec. 54) |
| Appendix 5 | Appendix 2 | Form of appointment of proxy | Form of appointment of proxy | The form has been amended slightly to apply to both a meeting of residents and a meeting of an incorporated association. |
|  |  | Defined terms | Defined terms | The list of terms defined in the code has been updated. |

1. Reg. 7C – Matters relating to communal amenities to be included in residence contract [↑](#footnote-ref-1)
2. Reg. 6 – Section 13 information [↑](#footnote-ref-2)
3. Reg. 4B - Form of residence contract [↑](#footnote-ref-3)
4. Reg. 7A – General matters to be included in residence contract [↑](#footnote-ref-4)
5. Reg. 7B – Matters relating to personal amenities to be included in residence contract [↑](#footnote-ref-5)
6. Reg. 7C – Matters relating to communal amenities to be included in residence contract [↑](#footnote-ref-6)
7. Reg. 7D – Matters relating to personal services to be included in residence contract [↑](#footnote-ref-7)
8. Reg. 7E – Matters relating to communal services to be included in residence contract [↑](#footnote-ref-8)
9. Reg. 7F – Financial matters to be included in residence contract [↑](#footnote-ref-9)
10. Clause 37 of the RV Code provides that clauses 17, 18 and 19 apply in respect of a retirement village for each financial year that commences on or after 1 July 2016. In this regard, it is important to note the village operating budgets for the 2016/17 financial year will to be prepared in accordance with clause 17 so as to comply with clause 26(1)(b) of the RV Code in relation to holding an annual budget meeting before the end of the 2015/16 financial year. [↑](#footnote-ref-10)