

Housing Legislation (Building Better Futures) Amendment Bill 2017

Explanatory Notes

Short title

The short title of the Bill is the Housing Legislation (Building Better Futures) Amendment Bill 2017.

Policy objectives and the reasons for them

The *Queensland Housing Strategy 2017-2027* (the Housing Strategy) is a 10-year framework driving key reforms and targeted investment across the housing continuum. The Housing Strategy seeks to ensure Queenslanders have access to safe, secure, and affordable housing.

The Housing Strategy aims to ensure confidence in housing markets, ensure consumers are protected and will reform and modernise the housing legislative framework.

The Housing Legislation (Building Better Futures) Amendment Bill 2017 (the Bill) delivers key objectives of the Housing Strategy including:

- **Connections** - ensuring that vulnerable community members are supported to sustain tenancies in appropriate and secure housing that facilitates social, economic and cultural participation.
- **Confidence** - supporting a fair and responsive housing system through reforms to legislation and regulations that enhance the safety and dignity of all Queenslanders and promote the provision of a range of housing options that meet the diverse needs of contemporary Queenslanders.

The Bill amends the:

- *Housing Act 2003* (**Housing Act**),
- *Manufactured Homes (Residential Parks) Act 2003* (**MHRP Act**),
- *Residential Services (Accreditation) Act 2002* (**RSA Act**),
- *Residential Tenancies and Rooming Accommodation Act 2008* (**RTRA Act**), and
- *Retirement Villages Act 1999* (**RV Act**).

These Acts provide consumer protections for a range of Queenslanders including renters, elderly and vulnerable people and those on a fixed income who do not have the same degree of autonomy and housing choice as the broader community. The Government is committed to delivering fair and equitable access to housing, including a range of regulated accommodation options, through industry regulation and consumer safeguards.

The MHRP Act, RTRA Act and RV Act have been the subject of ongoing review processes, resulting in community expectation that reforms to these Acts will be progressed as soon as possible.

The overarching objective across the legislative reviews and amendments to the MHRP Act, RSA Act, RTRA Act and RV Act is to ensure fairness and consumer protections for people who are either living in regulated accommodation or considering moving into these types of housing, while enabling the continued viability of these industries and sectors.

Housing Act 2003

Following 2014 amendments, the Housing Act implements the National Regulatory System for Community Housing (NRSCH) in Queensland. The NRSCH establishes a consistent regulatory environment with clear performance measures for community housing providers and makes registration under the NRSCH a condition of funding for community housing providers.

The objective of the Bill is to amend the Housing Act to provide clarity regarding the definition of a 'relevant asset'. This is necessary to protect the State's interests of an estimated \$40 million in social housing dwellings, particularly where funded community housing providers are required to transfer or otherwise dispose of the 'relevant asset' should they choose not to apply for registration or are refused registration under the NRSCH before the end of the transitional period on 31 December 2018.

Manufactured Homes (Residential Parks) Act 2003

In residential parks, a home owner buys their manufactured home (from a manufactured home supplier, the park owner or a departing home owner) and rents the land their home is sited on from the park owner. The MHRP Act aims to regulate, and promote fair trading practices in, the operation of residential parks, including by managing the relationship between park owners and home owners.

The objective of the Bill is to amend the MHRP Act to increase transparency in the relationships between park owners and home owners, and strengthen consumer protections to provide more security and confidence to home owners. Reforms include a new, staged pre-contractual disclosure process; limitations on rent increases; prescribed behavioural standards for park owners, staff and home owners; and other related measures.

Residential Services (Accreditation) Act 2002

The RSA Act regulates the conduct of residential services, such as boarding houses, to protect the health, safety and freedom of residents, encourage service providers to continually improve the way they conduct residential services and to support fair trading in the residential services industry.

The objective of the Bill is to amend the RSA Act to address ambiguity and uncertainty in the Act, including giving effect to certain recommendations following a three-month investigation into unregistered boarding houses. This includes ensuring that residential services accommodating women and children fleeing domestic and family violence will not have the service's address included on the publicly searchable register of residential services.

Residential Tenancies and Rooming Accommodation Act 2008

The RTRA Act establishes the rules for residential and rooming accommodation in Queensland and sets out the rights and obligations of tenants, lessors and agents.

The objective of the Bill is to amend the RTRA Act to give effect to the Government's 2015 election commitment to prescribe minimum housing standards for private rental accommodation that will be extended to social housing as an equity measure.

Amendment of the RTRA Act is required to allow the *Residential Tenancies and Rooming Accommodation Regulation 2009* (RTRA Regulation) to be amended to prescribe the minimum housing standards for rental accommodation to ensure a consistent standard of rental properties to improve the access of Queenslanders to safe, secure and appropriate housing.

Retirement Villages Act 1999

The RV Act establishes the regulatory framework for the operation of retirement village schemes in Queensland, and regulates the relationship between retirement village scheme operators and residents. The Act aims to promote consumer protection and fair trading practices and encourage the continued growth and viability of the retirement village industry in Queensland.

The objective of the Bill is to amend the RV Act to increase transparency in the relationships between operators and residents, and provide greater security and confidence to residents, balanced with industry viability. The amendments will give effect to the Government's 2015 election commitment to "examine the results of the consultation thus far to determine if a more extensive solution is required before a response to Report No. 13 – *Review of the Retirement Villages Act 1999*" (election commitment 522).

Since 2012, the Queensland Government has undertaken extensive consultation with a range of key stakeholders (industry, resident advocacy groups and residents) and the public regarding issues with the RV Act.

A review of the RV Act was referred by the former Parliament to the then Transport, Housing and Local Government Committee. On 29 November 2012, the committee tabled its report containing 37 recommendations (Report No 13) and the former Government's response to the report was tabled on 26 February 2013. Subsequent review activities included a Ministerial working party examination of the report and release of a Consultation Regulatory Impact Statement (Consultation RIS) in August 2014. Further research and targeted consultation with industry, consumer advocates

and resident representatives was conducted in 2016 and 2017 to develop the preferred options and amendments as part of the reforms for the Housing Strategy

Several of the amendments also address residents and consumer advocate concerns raised recently in the media and with governments across Australia about issues in the retirement village industry around fees, contracts and residents' safety.

Achievement of policy objectives

Amendment of the Housing Act 2003

The Bill will amend the Housing Act to achieve its objective of clarifying the definition of 'relevant asset' to protect the State's interest by:

- amending the definition of 'relevant property' under section 156 to ensure better understanding of the intended scope of the term; and
- providing that the amended definition of 'relevant property' is taken to have effect from the commencement of the definition in the *Housing and Other Legislation Amendment Act 2013*.

These changes will give increased clarity to the original intention of the legislation to fully protect the State's interests in relation to assets and the obligations about transferring or otherwise disposing of relevant assets under section 159 of the Housing Act.

Amendment of the Manufactured Homes (Residential Parks) Act 2003

Measures in the Bill to increase transparency in the relationships between park owners, staff and home owners will be achieved through:

- improved pre-contractual disclosure processes, by introducing a two stage process, commencing 21 days prior to final execution of the site agreement that will enable prospective home owners to 'shop around', seek expert legal and financial advice, and carefully consider their decision. There will be capacity to shorten this process if the prospective home owner obtains legal advice, so they can move in more quickly while still preserving vital protection provided by obtaining legal advice;
- prescribing clear, enforceable behaviour and management standards for park owners and home owners; and
- providing a process for in-park dispute resolution before matters are escalated to the Queensland Civil and Administrative Tribunal (QCAT).

Measures in the Bill to strengthen consumer protections and provide more security and confidence to home owners will be achieved through:

- limiting rent increases under the site agreement to one per year, and increase the transparency of market rent review calculations;
- limiting rent increases outside the yearly review to situations where there is a threat to park viability and, for new facilities, where 75 per cent of homeowners support the proposed facility;
- prohibiting administrative fees for provision of utilities, including meter reading; and
- ensuring emergency services and health workers have access to residential parks and emergency management plans are in place.

Amendment of the Residential Services (Accreditation) Act 2002

The Bill will achieve its objective to address ambiguity and uncertainty in the RSA Act by:

- improving the clarity of several provisions to assist residential service providers' and residents' understanding of their rights and obligations; including provisions relating to the meaning of 'resident', cancellation of registration, providing for who is an associate, renewal of accreditation, death of a service provider, notice of change in associate's criminal history, and requirement for a fire safety management plan.
- improving compliance processes to ensure the health and safety of residents; including provisions for reducing the time between initial registration and accreditation, changes to notification of the death of a resident in level 3 services, information on registration certificates and the state register, making of guidelines, clarifying that programs exempted under the former Supported Accommodation Assistance Program are exempted under their new program names, and ensuring that residential services accommodating women and children fleeing domestic and family violence will not have the service's address included on the publicly searchable register of residential services.

Amendment of the Residential Tenancies and Rooming Accommodation Act 2008

The Bill will achieve its objective of providing for the prescribing of minimum housing standards for rental accommodation by:

- amending the RTRA Act to enable new provisions to be made within the RTRA Regulation that specify the minimum housing standards in relation to building and health matters that is the lessor and/or agent responsibility.
- enabling the development of prescribed minimum housing standards in the RTRA Regulation to supplement the existing legislation for minimum building standards under Building Codes enforced through local councils and that of tenancy legislation and regulation with a focus on health and safety matters which are or will be the responsibility of the lessor and/or agent.

Amendment of the Retirement Villages Act 1999

The Bill will amend the RV Act to achieve its policy objective to increase transparency in the relationships between retirement village operators and residents through:

- improving pre-contractual disclosure processes, by introducing a two stage, 21-day process prior to final execution of the residence contract.
- prescribing clear and enforceable behaviour standards for operators, staff of operators and residents.
- prescribing greater financial transparency regarding retirement village funds, budgets and financial statements.

The Bill also includes measures to provide security and confidence to residents through:

- introducing a simpler, more predictable reinstatement process which distinguishes between reinstatement and renovation.

- protecting residents by introducing a new process when there is a change in village operations (closure, wind down, redevelopment or change in operator).
- in cases of delayed resale, requiring operators to pay residents their exit entitlement 18 months after the resident leaves, unless doing so would cause the operator undue hardship.

Alternative ways of achieving policy objectives

The amendments contained in this Bill are a result of extensive policy analysis, including jurisdictional comparisons, and extensive consultation with a broad range of consumer, resident and industry stakeholders over recent years. Government regulation will be maintained to the extent necessary to provide consumer protections and safeguards, balanced with the viability and growth of the regulated housing industry.

Amendment of the Housing Act 2003

There are no alternative ways to achieve the policy objectives, as the amendment seeks to clarify more fully the existing definition contained within the legislation and its application.

Amendment of the Manufactured Homes (Residential Parks) Act 2003

The MHRP Act amendments are considered the best way of achieving the objectives to increase transparency in the relationships between park owners and home owners, and strengthen consumer protections to provide more security and confidence to home owners.

Amendment of the Residential Services (Accreditation) Act 2002

The RSA Act amendments are to address ambiguity and uncertainty in the RSA Act that impact on its current effectiveness and hamper achievement of the objects of the Act. There is no alternative way of achieving the policy objectives for improving the clarity and compliance processes in the Act.

Amendment of the Residential Tenancies and Rooming Accommodation Act 2008

There are no alternative ways to achieve the policy objectives to give effect to the election commitment to amend the RTRA Act to prescribe minimum housing standards. Amendments are required to enable the RTRA Regulation to include new provisions to set minimum housing standards that will supplement existing minimum building standards and tenancy law requirements, in order to provide consumer protections and rights.

Standards will help achieve consistency and predictability of rental housing expectations, without requiring consumers to negotiate special conditions of an agreement for their fundamental housing needs.

The framework for compliance and enforcement policy will be determined during the development of the standards that will form part of the RTRA Regulation. Therefore, the benefits and the costs will be examined and explained as part of that process, but ultimately seek to serve the consumer and balance tenant rights to safe and secure rental housing.

Amendment of the Retirement Villages Act 1999

The amendments in the Bill are considered the best way of achieving the policy objectives of increasing transparency between retirement village operators and residents, and providing security and confidence to residents. Options for reform were extensively consulted on through the Parliamentary Committee, Ministerial working party and Consultation RIS processes, and were further developed and refined through targeted consumer, resident and industry stakeholder consultation on options for reform in 2016 and 2017. Options consulted on for changes to village operations, behavioural standards for operators and residents, and exit entitlements included maintaining the status quo, increasing pre-contractual disclosure, and implementing prescribed requirements.

Estimated cost for government implementation

Amendment of the Housing Act 2003

The amendment of the Housing Act will have a positive impact on Government finances, and any costs arising from implementation will be met from existing agency resources.

Amendments of the Manufactured Homes (Residential Parks) Act 2003, Residential Services (Accreditation) Act 2002 and Retirement Villages Act 1999

The amendments of the MHRP Act, RSA Act and RV Act are not expected to have a significant ongoing impact on the operations, capacity and funding of Government institutions.

The implementation costs of the legislative amendments will be met through existing department budget allocations. This includes the allocation of \$1 million over two years under the Housing Strategy 2017-2020 Action Plan to help peak groups representing manufactured home owners, residential service residents, and retirement village residents to prepare for legislative changes through community advocacy and access to information.

The amendments are expected to have a positive impact on the Residential Services Unit within the Department of Housing and Public Works, which is responsible for ensuring compliance with these Acts, by making compliance requirements and processes clearer and more streamlined.

The amendments in the Bill will impact on matters before the QCAT, however it is anticipated that the overall number, and number of protracted matters going to QCAT will be reduced. New provisions in the MHRP Act and the RV Act for behavioural standards, and the new dispute resolution process for residential parks, will clarify the

standards expected of park owners, staff and residents and provide opportunities to resolve disputes within parks and retirement villages, or through mediation, before application to QCAT.

While other RV Act amendments will allow reinstatement disputes to immediately proceed to QCAT (instead of going through formal negotiation and mediation processes), the impact is not expected to be significant as these amendments should reduce disputes by providing a simpler reinstatement process. Residents and operators will be able to apply to QCAT if they disagree with the Chief Executive's decision regarding an operator's plan when there is a change in village operations (such as redevelopment), however these are anticipated to be relatively rare events.

The proposal to require operators to pay residents their exit entitlement 18 months after departure may also impact on QCAT. The proposal allows the operator to seek an order to defer or reduce the repayment if paying this would cause the operator undue hardship. Given most units are sold within 18 months, the proposal will only apply to a minority of resale cases.

Amendment of the Residential Tenancies and Rooming Accommodation Act 2008

Any costs incurred by the Department of Housing and Public Works in implementing the amendments to the RTRA Act will be met through the existing department budget and resources.

Any financial implications arising out of the amendments to the RTRA Act will be met by the Residential Tenancies Authority (RTA) in relation to public information on changes and further amendment to the RTRA Regulation and will be met from the existing operating budget of the RTA.

The additional costs associated with the future amendment of the RTRA Regulation will be addressed and advised as part of the development of those amendments.

Consistency with fundamental legislative principles

Potential inconsistencies with fundamental legislative principles raised by the Bill are addressing below.

Does the legislation adversely affect rights or liberties, or impose obligations retrospectively?

Section 4(3)(g) of the *Legislative Standards Act 1992* provides that whether legislation has adequate regard to the rights and liberties of individuals depends on, for example, whether the legislation adversely affects rights or liberties or imposes obligations, retrospectively.

Amendment of the Housing Act 2003

Clause 4 amends the definition of ‘relevant property’ in section 156 of the Housing Act. This amendment to the definition clarifies the intention that accommodation providers given assistance or using funding from the Department of Housing and Public Works (the Department) in relation to work of any nature on property in which they have an interest would be subject to the requirements under section 159. This amendment is consistent with the policy intent that the obligations about transferring or otherwise disposing of relevant assets (which include relevant property) under section 159 will apply to these properties.

The proposed amendment will have retrospective application, with effect from the commencement of the *Housing and Other Legislation Amendment Act 2013* which implemented the National Regulatory System for Community Housing Providers (NRSCH) and made registration a condition of funding for community housing services.

The retrospective application of this amendment is justified on the basis that it removes doubt about the application of section 159 and confirms the original intention of the provisions of the Housing Act.

Does the legislation have sufficient regard to the rights and liberties of individuals and adversely affect rights or liberties, or impose obligations retrospectively?

Section 4(2)(a) of the *Legislative Standards Act 1992* requires legislation to have sufficient regard to the rights and liberties of individuals and section 4(3)(g) of that Act provides that whether legislation has adequate regard to the rights and liberties of individuals depends on, for example, whether the legislation adversely affects rights or liberties or imposes obligations, retrospectively.

Amendment of the Manufactured Homes (Residential Parks) Act 2003

The amendments to sections 69 and 70 of the MHRP Act will apply to existing site agreements to alter the way that site rent can be increased under the terms of the site agreement. This raises an issue about amendments interfering with parties’ existing rights as the new restrictions on rent increases will affect existing site agreements.

Most manufactured home owners are retirees living on a limited, fixed income. Site rent increases, and, in particular, site rent increases based on a market review of site rents (given their unpredictable outcomes), are an issue of significant concern for home owners.

Manufactured home owners are in a different situation to renters who can move to other accommodation offering the same or lower rent, relatively quickly and affordably, if their rent is increased beyond what they are able to afford. This contrasts with the situation of manufactured home owners facing site rent increases they cannot afford, who have the choice of attempting to relocate their manufactured home to another residential park, or selling their home on-site to an incoming home owner. Relocating a manufactured home is not a realistic proposition for most manufactured home owners because of the difficulty in finding another site that will accept a relocating

home and the difficulty, inconvenience and significant expense involved in removing the home from its site and relocating it. Selling the manufactured home on-site to another home owner can also be problematic because of the time that can be taken to resell the home and the fact that in leaving the residential park, the home owner will face losing a supportive network of home owners. Also, depending on where they relocate to, it may impact on access to service providers, such as health professionals, that the home owner may have established in the locality of the residential park.

The amendments provide that site rent increases can only be worked out on one basis at a time and that site rent can only be increased once, per year. Further, the amendments will provide the QCAT with the capacity to appoint an independent valuer in certain circumstances where the home owner disputes the market review increase, including where the park owner has not consulted with home owners during the market review, or the park owner did not calculate the market review increase in a clear and transparent way or is otherwise unreasonable.

These amendments are arguably retrospective in that they apply to existing site agreements. These amendments are justified on the basis that they provide greater fairness and transparency to home owners while still allowing park owners to make reasonable increases to the site rent that they charge. They are also justified because these provisions should apply in a uniform way to current and new home owners, otherwise these changes would result in different site rents payable, at different times and at different intervals, depending on whether a home owner was in a park before or after the changes were made.

Amendment of the Retirement Villages Act 1999

An amendment to the RV Act will require operators to pay residents their exit entitlement 18 months after the resident leaves, unless doing so would cause the operator undue hardship.

This amendment will apply to existing residence contracts, but with a prospective focus. Where a resident has already left a village, the 18 month period for payment of the exit entitlement will commence from the date of assent of the amendment, not the date of the resident's departure. The retrospective operation of this clause raises a potential breach of fundamental legislative principles, because it applies to residence contracts entered by scheme operators and retirement village residents prior to commencement of the amendments.

It is considered that retrospectivity is justified in this instance because the issue of residents being unable to access their exit entitlement when units remain unsold after a long period of time, was one of the most common complaints expressed by retirement village residents during the review of the RV Act. If the proposal was implemented only prospectively, it would create different protections for residents, depending on whether they entered the village before or after the amendment was made. This would create significant inequity. If the provision only applied to new retirement village residents, scheme operators would have an incentive to focus on the resale of units to which the 18 month exit entitlement payment obligation applied, which would further disadvantage those departed residents whose units remained unsold for a significant period of time.

The impact on operators is mitigated by the right provided to them to avoid repayment if this causes the operator hardship. This may be the case where there are small villages located in regional areas where the number of seniors looking to move into a retirement village is low. Further, for residents who have already left their village, the 18-month period will commence from the date of assent, not the date they left.

These amendments will be an important way to provide existing and prospective retirement village residents with greater confidence in their choice of accommodation, and operators will likely benefit when this problem is addressed, given the issue of residents not receiving their exit entitlement for prolonged periods has a negative impact on the reputation of the retirement village industry.

Does the legislation have sufficient regard to the rights and liberties of individuals?

Section 4(2)(a) of the *Legislative Standards Act 1992* requires legislation to have sufficient regard to the rights and liberties of individuals.

Amendment of the Manufactured Homes (Residential Parks) Act 2003

The amendment to section 71 of the MHRP Act permits site rent to be increased to cover significant upgrades to common areas or communal facilities where at least 75 per cent of home owners agree to such an increase. This provision may raise a fundamental legislative principle concern in that it deprives a home owner who disagrees with the proposed increase with a right to object to a site rent increase under this section.

While this section does not provide a home owner with the right to object to the increase in these circumstances, this is justifiable on the basis that at least three quarters of the home owners are supportive of the increase. While there is a loss of rights to home owners not supportive of the increase, this is balanced with the greater certainty provided to all home owners in the park in circumstances where home owners have been given the opportunity to have their say in deciding whether the upgrade should go ahead. This situation is analogous to those provisions in the RV Act that permit a capital improvement to be requested by residents who vote for this by special resolution at a residents meeting.

The proposed s71C allows QCAT to make an order to increase site rent to cover significantly increased operational costs and repair costs, as well as upgrade costs. One of the matters QCAT must be satisfied of before allowing a rent increase for operational and repair costs is that if the site rent is not increased the residential park will not be commercially viable without significantly reducing the park owner's capacity to carry out the park owner's responsibilities under section 17 of the Act. Section 17 includes such matters as maintenance and compliance with the site agreement. This could be seen as a significant imposition on park owners in that they will have to establish that financial viability of the entire park is threatened before they can obtain a rent increase under the section. However, this is considered justified because most manufactured home owners are retirees living on a limited, fixed income. Site rent increases are an issue of significant concern for home owners. As noted above they have problems in selling or relocating manufactured homes.

Does the legislation have sufficient regard to the institution of Parliament?

Section 4(2)(b), 4(4)(a) and (b) of the *Legislative Standards Act 1992* require legislation to have sufficient regard to the institution of Parliament.

Amendment of the Residential Tenancies and Rooming Accommodation Act 2008

Insertion of the new Chapter 1, Part 3, Division 4 into the RTRA Act will establish a power for minimum housing standards to be prescribed by regulation. It could be argued that including the particular minimum standards in a regulation (rather than the primary legislation) is a breach of the fundamental legislative principle that legislation have sufficient regard to the institution of Parliament, including by allowing the delegation of legislative power only in appropriate cases and to appropriate persons and by sufficiently subjecting the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly.

Establishing a clear head of power in the primary legislation to prescribe particular minimum housing standards is justified due to the detailed and technical nature of describing the relevant standards. The potential breach of the fundamental legislative principle is mitigated by:

- the new provisions setting out in considerable detail examples of the minimum housing standards able to be prescribed;
- the process of specifying the particular minimum standards to be imposed by regulation will be conducted in accordance with the rigorous analysis, as well as community and industry consultation requirements of the Statutory Instruments Act 1992; and
- any regulation prescribing minimum housing standards will be subject to potential disallowance by the Legislative Assembly under section 50 of the *Statutory Instruments Act 1992*.

Does the legislation have sufficient regard to the institution of Parliament?

Section 4(4)(c) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to the institution of Parliament depends on whether the legislation authorises the amendment of an Act only by another Act.

Amendment of the Manufactured Homes (Residential Parks) Act 2003 and the Retirement Villages Act 1999

The amendments to the MHRP Act and the RV Act each include a transitional regulation-making power. This power provides that a regulation (a 'transitional regulation') may make provision of a saving or transitional nature about a matter where it is necessary to allow or facilitate the transition from the operation of the pre-amended Acts to the operation of the amended Acts, and the Bill does not make sufficient provision for that.

Such a transitional regulation may have retrospective operation to a day not earlier than the day the transitional regulation making power commences. Such a transitional

regulation must be declared to be a transitional regulation. The transitional regulation-making powers in the Act and any transitional regulation made under the power will expire one year after the day the transitional regulation-making power commences.

While a provision of this kind implies a regulation may be made about a matter that otherwise would have been dealt with in the Act, the concern is mitigated by the inclusion of a one year sunset clause on both the empowering provision and any regulation made under it. Further, any regulation prescribing a transitional regulation will be subject to potential disallowance by the Legislative Assembly under section 50 of the *Statutory Instruments Act 1992*.

Such a measure is required to manage the risk of issues that may emerge after the amendments commence, as manufactured home owners and park owners (in the case of the amendments to the MHRP Act) and retirement village residents and retirement village scheme operators (in the case of the amendments to the RV Act) transition into the new schemes, given the complexity of the legislation and the role it plays in ensuring the residential park and retirement village models operate fairly and in a way that causes minimal disruption.

Does the legislation have sufficient regard to the rights and liberties of individuals subject to new penalties?

Section 4(2)(a) of the *Legislative Standards Act 1992* requires legislation to have sufficient regard to the rights and liberties of individuals.

The Bill includes new penalties regarding particular provisions of the MHRP Act and the RV Act. The introduction of new penalties is justified for the following two key reasons:

- to discourage park owners and retirement village scheme operators from attempting to misuse, avoid or contract out of the policy principles underpinning each Act; and
- to ensure manufactured home owners and retirement village residents are adequately protected.

The levels of the proposed new penalties are consistent with comparable, existing offences.

Does the legislation make rights and liberties or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review?

Amendment of the Retirement Villages Act 1999

Section 4(3)(a) of the *Legislative Standards Act 1992* requires that rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

The amendments to the RV Act create a head of power to enable standard form contracts to be introduced. It could be argued that creating standard form contracts is a breach of the fundamental legislative principle that rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

Establishing a clear head of power in the legislation to prescribe a standard form contract is justified due to significant problems of consumer confusion and uncertainty. These arise from current practices that have led to lengthy and diverse contracts that do not enable prospective retirement village residents to easily 'shop around', compare villages and develop a proper understanding of the long-term obligations and rights created when they enter these contracts. The potential breach of the fundamental legislative principle is mitigated by the process of developing the standard form contract, which will take place in close consultation with peak resident groups, seniors groups and community, industry and legal peak bodies.

Consultation

In July 2017, targeted stakeholder consultation with Ministerial Housing Council (MHC) members plus other key stakeholders took place on a draft Bill. Stakeholders participating in this process included:

- Resident/consumer groups including: Association of Residents of Queensland Retirement Villages, Associated Residential Parks Queensland, Caxton Legal Centre (Park and Village Information Link), Manufactured Home Owners Association, the Services Union, Tenants Queensland.
- Peak and community groups including: Black Community Housing Services Ltd, Council on the Ageing, Domestic and Family Violence Implementation Council, National Seniors Australia, Queenslanders with Disability Network, Queensland Law Society, Queensland Council of Social Services, Queensland Shelter and Umpi Korumba.
- Industry representatives including: Caravanning Queensland, Housing Industry Association Queensland, Leading Age Services Australia, Property Council of Australia, Property Owners Association of Queensland, Real Estate Institute of Queensland, Strata Community Australia, Urban Development Institute of Australia and Supported Accommodation Providers Association.

In general terms, manufactured home owner groups and seniors' groups supported the proposed amendments to the MHRP Act and the RV Act as important steps to improved consumer confidence in these industries. There was a general view that more needs to be done, much of it at the national level, to ensure that consumers fully understand the housing and support choices they can make as they age and that developers and operators have some long-term investment certainty about the products they offer.

Some groups such as the Manufactured Home Owners Association, Associated Residential Parks Queensland and Tenants Queensland sought additional reforms to address other issues. Such issues included, for example, how to better address the circumstances where a manufactured home owner leaves a park but is not able to sell their home and therefore must continue to pay site rent. Addressing such issues will

require further consideration and analysis, including analysis through regulatory impact analysis processes. These concerns will be carefully examined following the implementation of the current set of amendments. Other suggestions, such as requiring residential park and retirement village staff to be trained, or developing more timely and responsive dispute resolution options, will be progressed with funding provided under the Housing Strategy to support peak groups and resident and home owner associations representing retirement village residents, manufactured home owners and residents living in residential services. These options are discussed under 'implementation' below.

Industry groups such as the Property Council of Australia and the Urban Development Institute of Australia sought clarification and modification of a number of amendments given that some changes could potentially impact on revenue earned by operators. These suggestions have been carefully considered and changes and clarifications made where appropriate. Some of the changes suggested would, if implemented, be inconsistent with the policy outcomes sought to be achieved by the amendments. Similar to some suggestions from resident and community groups, some requests coming from industry will be more appropriately addressed in implementing commitments made in the Housing Strategy to streamline legislative frameworks for regulated forms of housing.

With regard to the RTRA Act, there was general support for the capacity to describe and clarify minimum housing standards in rental properties, and strong interest in participating in and developing the specific matters that would be covered by regulation, particularly to make sure that these matters can be described in a practical way. There was some disappointment that other measures described in earlier consultation rounds had not appeared in this Bill but these matters will be addressed through the forthcoming discussion led process.

The MHPR Act, the RSA Act, the RTRA Act and the RV Act have been reviewed to ensure an appropriate balance between consumer protection for people entering, living in and leaving these forms of accommodation and maintaining a viable industry. As well as examining earlier review work, these reforms are the outcome of consultation conducted as part of the Working together for better housing and sustainable communities discussion paper which sought input into the Housing Strategy. Consultation was conducted throughout the State in 2016 to explore issues relevant to these Acts, including homelessness, affordable rental, tenancy laws and seniors' accommodation.

The following consultation has occurred for the review of the following Acts.

Manufactured Homes (Residential Parks) Act 2003

Consultation processes have included a home owners' survey in 2013 and survey report in May 2014, examination of issues by a working party comprising representatives from industry, home owner groups, consumer advocates and the legal profession met between 2014 and 2016 to discuss issues relating to residential parks. A home owners' forum was held in Bethania in February 2016.

State-wide community engagement took place as part of the Housing Strategy development process. Targeted consultation was undertaken in September 2016 on the proposed amendments to the MHRP Act, including a community workshop of manufactured home owners. In September 2016, roundtable meetings were held to discuss the proposed amendments with industry representatives attending one session and a roundtable meeting to discuss the proposals was also held with home owner and seniors' advocacy groups.

Residential Services (Accreditation) Act 2002

The proposed amendments to the RSA Act were identified by the department in the course of administering and enforcing the Act. To inform the review of the RSA Act, a private contractor was engaged to conduct consultation with residential service operators and residents across the State between March and June 2016. The resulting report of the outcomes of this consultation will contribute to the review of this Act over 2017.

Targeted consultation on resolving ambiguities in the RSA Act and the amendments required following the investigation into unregulated residential services was undertaken on 25 May 2017. The MHC and residential service and community stakeholders were consulted on the draft amendments to the RSA Act in the Bill in July 2017.

Residential Tenancies and Rooming Accommodation Act 2008

The RTA has been conducting a review of the RTRA Act since late 2012. The review process has included public consultation on a discussion paper in 2012/13, regular meetings with rental sector stakeholders and peak organisations, ongoing monitoring of emerging trends, and an analysis of Australian tenancy legislation to establish comparable benchmarks. Targeted consultation was undertaken in 2016 as part of the Housing Strategy, and included participation in Queensland-wide sessions, a call for submission, deep dive sessions, a survey on Get involved, and a stakeholder consultative group which met three times over August and September 2016 to review proposed amendments.

The issue of standards of rental accommodation was identified as requiring further consideration. To assist with informing the Minister's recommendations to Parliament, the MHC and other stakeholders were consulted in May and July 2017 on proposed amendments to the RTRA Act to enable provision of minimum housing standards.

Retirement Villages Act 1999

Consultation for review of the RV Act has occurred since 2012 through the then Parliamentary Committee (Transport, Housing and Local Government), a Ministerial Working Party, and a Consultation Regulatory Impact Statement (RIS) in late 2014. Further targeted consultation occurred in 2016 for the development of the Queensland Housing Strategy, involving separate consumer advocacy and industry roundtable meetings and a resident community forum, and with the MHC and other key stakeholders in May and July 2017.

Consistency with legislation of other jurisdictions

The legislation amended by the Bill, apart from aspects of the Housing Act which implement the NRSCH, is specific to the State of Queensland, and is not uniform with or complementary to legislation of the Commonwealth or another state.

In 2014, the Housing Act was amended by the *Housing and Other Legislation Amendment Act 2013* to implement the NRSCH in Queensland. The implementation of NRSCH was a significant reform, providing tenants and the wider community with greater confidence in the social housing system by establishing a consistent regulatory environment with clear performance measures for housing providers. The 2014 amendments to the Housing Act made registration a condition of funding for community housing services.

As noted above, to shift to the new requirements for registration, the Housing Act includes a transitional period for providers registered under existing provisions, to apply for and obtain, national registration under NRSCH and continue to be funded. If these providers do not apply for registration or are refused registration, then they must transfer or otherwise dispose of their 'relevant asset' in the way prescribed before the end of the transitional period.

An amendment to the *Housing Regulation 2015* was approved by Governor in Council on 8 June 2017 to extend the end of the transitional period from 30 June 2017 to 31 December 2018.

The amendments are to provide clarity regarding the definition of a 'relevant asset' under the *Housing Act*.

Notes on provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill will be cited as the *Housing Legislation (Building Better Futures) Amendment Act 2017*.

Clause 2 sets out the commencement dates for the respective parts of the Act..

Part 2 Amendment of Building Act 1975

Clause 3 states that this part amends the *Building Act 1975*.

Clause 4 amends a reference in the dictionary for the Act to refer to ‘common areas, for a residential park’ under the *Manufactured Homes (Residential Parks) Act 2003* as schedule 2, to reflect amendments made to the *Manufactured Homes (Residential Parks) Act 2003*.

Part 3 Amendment of Housing Act 2003

Clause 5 states that this part amends the *Housing Act 2003* (the Act).

Clause 6 amends section 156 of the Act definition of ‘relevant property’ to clarify the meaning of relevant property.

Clause 7 inserts a new part 10, division 8 ‘Transitional provision for Housing Legislation (Building Better Futures) Amendment Act 2017’. New section 171 provides that the commencement of the amendment to section 156, definition of relevant property, is taken to have effect from the commencement of the *Housing and Other Legislation Amendment Act 2013*.

Part 4 Amendment of Manufactured Homes (Residential Parks) Act 2003

Clause 8 states that this part amends the *Manufactured Homes (Residential Parks) Act 2003*.

Clause 9 amends the objects of the Act to update the reference from site agreement dispute to residential park dispute.

Clause 10 updates a definition to recognise that there is now more than one schedule and the dictionary is now ‘schedule 2’.

Clause 11 omits the definition of ‘home owners information document’ because the new pre-contractual disclosure process does not include that document.

Clause 12 removes reference to the term 'site agreement dispute' and updates this to 'residential park dispute'. This clause lists out what disputes are characterised as residential park disputes

Clause 13 amends section 16 to include in the list of home owner's responsibilities the obligation to respect the rights of others as listed under section 105.

Clause 14 amends section 17 to broaden the obligations in sections 17(a), (b) and (c) to the tenant of a home owner and to include in the list of park owner's responsibilities, the obligation to respect the rights of home owners and other residents set out in section 104.

Clause 15 omits Part 4 of the Act which set out the form and content of the home owners information document, because the new pre-contractual disclosure process does not include that document.

Clause 16 amends section 22 dealing with variation of special terms, so that if there is a dispute about a variation of a special term, the parties must attempt mediation of that dispute before applying to the tribunal for an order about the matter.

Clause 17 amends section 25A dealing with special terms of site agreements so that if there is a dispute about whether a special term is in plain language, the parties must attempt mediation of that dispute before applying to the tribunal for an order about the matter.

Clause 18 amends section 25B dealing with prohibited terms of a site agreement and prohibited park rules, so that if there is a dispute about whether a special term or a park rule is wholly or partly void because it is prohibited by a regulation, the parties must attempt mediation of that dispute before applying to the tribunal for an order about the matter.

Clause 19 introduces the new, staged, pre-contractual disclosure process by removing the existing section 29 and replacing this with the obligation to provide a prospective home owner with the documents listed in new schedule 1, according to the timing set out in the new section 29.

This clause also includes new section 29A which provides the prospective home owner with the capacity to waive the obligation to be provided with the initial disclosure documents 21 days before entering the site agreement if the prospective home owner provides a notice to the park owner that the home owner understands their right to be given the initial disclosure documents and waives this right, and has obtained independent legal advice from a lawyer about the effect of that waiver. The consequence of this waiver is that the prospective home owner will receive the initial disclosure documents and other documents mentioned in section 29(3) at the same time, 14 days before entering into the site agreement.

Clause 20 amends section 30 which prohibits a park owner from restricting a person's right to get legal advice so that this prohibition also extends to restricting the right of a person to get legal advice about the effect of the waiver in new section 29A.

Clause 21 updates the heading of this division, which refers to the termination of site agreements in the cooling-off period, to refer to the termination of site agreements for not giving disclosure documents as required.

Clause 22 amends section 33 so that a cooling-off period of 28 days applies if the park owner and the prospective home owner enter a site agreement and the park owner has not complied with the requirements to provide the disclosure documents under new section 29. Otherwise a cooling-off period of 7 days applies.

Clause 23 amends section 34 to clarify that the refundable amount payable to a person with a registered security interest when a home owner terminates the sale agreement can include all or part of the refundable amount of money owing.

Clause 24 amends section 35 dealing with compensation that may be payable to a home owner for relocating the home. If the home owner terminates the site agreement under the cooling-off provisions, and there is a dispute about the compensation payable by the park owner, the home owner and park owner must attempt to mediate that dispute before the home owner applies to the tribunal for an order about the matter.

Clause 25 makes clear the requirement that the assignment of a site agreement by a home owner to a buyer must be by written agreement, and that this agreement is void to the extent that it excludes, changes or restricts the buyer's right to obtain legal advice about the assignment; that it must be in the approved form; that it must be with the consent of the park owner; that the buyer must be given disclosure documents; and that the buyer has a cooling-off period.

Clause 26 omits the requirement that the park owner must, in the case of assignment of a site agreement, give the buyer certain documents as part of the pre-contractual disclosure process, because the relevant documents are now specified in new section 45A.

Clause 27 inserts new section 45A which specifies that, in the case of a home owner assigning their interest in the site agreement to a buyer, the park owner must provide the buyer with the disclosure document set out in schedule 1, regardless of whether the park owner consents to the assignment.

Clause 28 amends section 46 which prohibits a park owner or seller from restricting a buyer's right to get legal advice so that this prohibition extends to restricting the right of a buyer to get independent legal advice about the effect of the waiver of the right to be given the disclosure documents in section 48B(2)(b)(i).

Clause 29 inserts the new, staged, pre-contractual disclosure process as it applies to the assignment of a site agreement by inserting the obligation in section 48A for the park owner to provide a buyer with the disclosure documents, in accordance with the timing set out in this section. This section creates a new penalty of 200 penalty units if the section is not complied with.

This clause also includes new section 48B, which provides the buyer with the capacity to waive the obligation to be provided with the disclosure documents 21 days before

entering the site agreement if the buyer provides a notice to the park owner that the buyer understands their right to be given the disclosure documents and waives this right, and has obtained independent legal advice from a lawyer about the effect of that waiver.

Clause 30 amends section 49 to state the seller must use the dispute resolution procedures under part 17, division 1 to resolve a dispute with the park owner regarding the assignment of the seller's interest and to increase the time limit for the park owner to provide consent to take into account the new disclosure requirement.

Clause 31 amends section 50 dealing with a park owner's refusal to consent to assignment of a site agreement, so that if the park owner refuses, or is taken to have refused, to consent to assignment of the site agreement, the parties must attempt mediation of that dispute before the seller applies to the tribunal for an order that the park owner consent to the assignment. This clause also amends this section to enable the seller to obtain an order directing the park owner to give the buyer the disclosure documents if they have not done so.

Clause 32 inserts new Divisions 3 and 4 into Part 7. New Division 3 includes section 51A, which provides a new cooling-off period for the assignment of site agreements.

New Division 4, pursuant to section 51B, applies if the seller and buyer have entered an agreement for the sale of a manufactured home. New section 51C requires that the seller must not complete the sale of a manufactured home unless the park owner has consented to the assignment of the site agreement and the buyer has been given the disclosure documents. New section 51D outlines what happens when a buyer terminates the assignment agreement under the cooling-off provisions in 51A. New section 51E makes void that part of a term in the sale agreement that seeks to exclude, change or restrict the operation of section 51C or 51D. Sections 51A and 51D create new penalty of 100 penalty units if the section is not complied with.

Clause 33 replaces the current section 69 dealing with increases in site rent provided for in a site agreement and inserts new sections. New section 69 specifies that Division 2 of Part 11 applies to increases in site rent under the site agreement and not increases for a special cost in Division 3 of Part 11.

New section 69A requires that the park owner must ensure the site agreement states the basis for working out the amount of an increase in site rent.

New section 69B prohibits a park owner from working out an increase in site rent using more than one basis at a time. An example is provided that the site rent cannot increase by CPI and market review at the same time. This section also prohibits more than one increase per year.

New section 69C requires that a park owner must nominate a general increase day when site rents for all eligible sites in the park will be increased on the same basis and states that the next general increase day must be at least 1 year after a general increase day that was stated in a general increase notice given under section 69E.

New section 69D requires that if site rent is to be increased by market review, the valuer engaged by the park owner must consult in the way specified in the section with the home owners committee if there is one, and if there is not, with certain numbers of home owners as specified by the section.

New section 69E requires that home owners for eligible sites must, 35 days before an increase, be provided with a notice (called a general increase notice) providing information about the proposed increase and other details. These details include, in the case of a market review, the market valuation by a registered valuer for that review. The notice must also provide information to the home owner about how the home owner can dispute the increase.

Clause 34 amends section 70 that provides a process for disputing the increase so that the parties must attempt mediation of that dispute before the home owner (or a group of home owners under section 141) applies to the tribunal for an order about the increase.

Clause 35 inserts new section 70A to permit the tribunal to appoint an independent valuer in certain circumstances, if there is a dispute about an increase in site rent based on market review, and to provide for the park owner to pay the costs of the valuer helping the tribunal.

Clause 36 replaces the existing Division 3 in Part 11 containing section 71, which dealt with other ways of increasing site rent, with a new Division 3 which addresses increases in site rent to cover special costs.

New section 71 specifies that this division applies to site rent increases that are necessary to cover 'special costs' the park owner has incurred or expects to incur, which include:

- significant increased operational costs
- the cost of significant repairs in relation to common areas or communal facilities that the park owner could not reasonably have foreseen
- the cost of significant upgrades to common areas or communal facilities

New section 71A provides that a notice must be given by the park owner to the home owner about the proposed increase and details about the type of special cost, the amount of the cost incurred, the amount of the proposed increase in the site rent and other details including about how to agree to or dispute the proposed increase.

New section 71B provides that for a proposed upgrade to common areas or communal facilities, if 75 per cent of home owners agree to the increase, all home owners are taken to have agreed to the increase.

New section 71C provides that if the home owner disputes the proposed increase, the park owner must attempt to mediate the dispute before the park owner applies to the tribunal for an order about the proposed increase.

New section 71D establishes criteria for the tribunal to consider when making a decision about whether to confirm or reduce the proposed increase.

Clause 37 amends section 72 to specify that if the home owner seeks a reduction in site rent because of a decline in amenity or standards; withdrawal of a communal facility; or for the other matters specified, the home owner and park owner must attempt to mediate that matter before the home owner applies to the tribunal for an order to have the site rent reduced accordingly.

Clause 38 amends section 73 so that a utility cost notice given by the park owner must state that if there is a dispute about a utility cost that is included in site rent, the home owner and park owner must attempt to mediate that dispute before the home owner applies to the tribunal for an order about the matter.

Clause 39 amends section 74 so that if there is a dispute under this section about a utility cost, the home owner and park owner must attempt to mediate that dispute before the home owner applies to the tribunal for an order about the matter.

Clause 40 amends section 81 to provide that if a park liaison committee proposes to make a decision about a proposal to change a park rule that would be contrary to an objection, the park liaison committee must invite the objectors to make representations about their proposed decision and consider these representations, before making their decision.

Clause 41 amends section 82 to provide a process for mediating disputes about park rules where the park owner or a home owner is dissatisfied with the decision of the park liaison committee, including that the home owner and park owner must attempt to mediate that dispute before the home owner or park owner applies to the tribunal for an order about the matter.

Clause 42 amends section 84 to specify when a proposal to change a rule takes effect, taking into account the dispute resolution processes described above.

Clause 43 inserts a new requirement for a park owner to ensure there is an emergency plan prepared for the park and specifies what is to be included in the emergency procedures. This section creates new penalty of 20 penalty units if the section is not complied with.

Clause 44 amends section 87 to require the park owner to ensure access to the park by emergency vehicles at all times unless the park owner has a reasonable excuse.

Clause 45 inserts a new section 87A which prohibits the park owner from restricting visitor access to the park where the visitor is providing a health or community service and also prohibits the park owner from restricting visitor access to a home owner or other resident unless the park owner has a reasonable excuse. This section creates new penalty of 20 penalty units if the section is not complied with.

Clause 46 amends section 89 to require a park owner to make reasonable attempts to display the park rules, or have information about where to obtain a copy of the park rules, on the park notice board.

Clause 47 amends section 90 to provide a process for mediating disputes about the maintenance of trees where a home owner considers the park owner has not maintained a tree as required under section 90, before the home owner applies to the tribunal for an order about the matter.

Clause 48 amends section 98 to provide a process for mediating disputes about alterations or additions to a manufactured home where the park owner has refused to give consent to the alteration or addition, before the home owner applies to the tribunal for an order about the matter.

Clause 49 amends section 99A to prohibit a park owner from charging a home owner administrative or meter reading fees for the supply of utilities to a site regardless of whether the amount is charged by or for the entity supplying the utility or another entity.

Clause 50 prohibits the park owner under section 100 from restricting home owners from establishing a home owners committee. The section creates new penalty of 20 penalty units if the section is not complied with.

Clause 51 inserts a new provision into section 102 which prohibits the park owner from restricting a home owners' committee from performing its function or a home owner who is a member of a committee from performing the member's functions. This section creates new penalty of 20 penalty units if the section is not complied with.

Clause 52 alters a reference to section 102 to reflect changes to the section numbering.

Clause 53 inserts part 16 of the Act, which introduces behavioural standards for park owners and home owners and part 17 of the Act, which introduces staged dispute resolution provisions.

New section 104 introduces behavioural standards for the park owner and requires the park owner to respect the rights of home owners and other residents. Under the new standards the park owner must:

- Not unreasonably interfere (or allow others to interfere) with the reasonable peace, comfort or privacy of home owners or other residents.
- Use best efforts to ensure home owners or other residents are free from harassment and intimidation.
- Not unreasonably restrict home owners' self-reliance or autonomy over personal, financial, domestic matters or other matters of possession.
- Respond to relevant correspondence within 21 days.

New section 105 introduces behavioural standards for home owners and requires home owners to respect the rights of other residents of the park and persons in the park. Under the new standards, a home owner must:

- Not interfere with the reasonable peace, comfort or privacy of other residents.
- Respect the right of the park owner and their representatives to work in an environment free from harassment and intimidation.
- Not act in a way that adversely affects the occupational health and safety of people working in the residential park.

New section 106 clarifies that the following sections create the new dispute resolution procedures.

New section 107 creates procedures for a dispute that requires parties to try and resolve disputes by negotiation at park level before proceeding to mediation. It allows a party to a dispute to give a dispute notice nominating a time to meet with the other party. The other party must give a written response within 7 days, agreeing to the time or proposing another time. Parties must then meet to try and resolve the dispute.

New section 108 creates procedures that requires parties to a dispute who have been unable to resolve the dispute by mediation, to apply to the registrar to be appointed a mediator to help resolve the matter.

New sections 109, 110 and 111 sets out who may be involved in the mediation process. A mediation conference is to be held in private, however parties may be represented by a lawyer or an agent and a mediator may allow other parties to be involved where the mediator is satisfied they have a sufficient interest.

New sections 112 and 113 requires a mediator to record an agreement in writing which has been reached by the parties and prohibits making a record of anything else said at a mediation conference other than notes which must be destroyed at the end of the conference. Section 113 creates new penalty of 40 penalty units if the section is not complied with.

New section 114 requires a mediator to provide both parties to the residential park dispute and the registrar a copy of the signed agreement or a written certificate about the outcome of the mediation.

New sections 115 and 116 allow parties to a dispute to apply to the tribunal to for an order in relation to a dispute where the parties have been allocated a mediator but have been unable to reach a mediation agreement, a period of 4 months has passed after the referral to mediation or a mediation agreement has been reached but not complied with.

New section 117 empowers the tribunal to make orders it is authorised to make elsewhere or otherwise considers appropriate to resolve the dispute.

Clause 54 removes old section 140 that has been replaced by new sections 115 and 117.

Clause 55 amends section 141 to allow the new dispute resolution mechanisms to apply for joint disputes by a group of home owners.

Clause 56 inserts new division 4, containing transitional provisions for matters being amended in the Act.

Clause 57 inserts new schedule 1 setting out what must be contained in the initial disclosure documents that are to be given to a prospective home owner, as well as other documents the prospective home owner is required to be given.

Clause 58 amends the dictionary.

Part 5 Amendment of Residential Services (Accreditation) Act 2002

Clause 59 states that this part amends the *Residential Services (Accreditation) Act 2002*.

Clause 60 amends section 4 dealing with the meaning of a residential service by replacing the existing section 4(5)(i) with a new section updating the description of services that are not a residential service and therefore not regulated under the Act. Clause 60 removes reference to the former Supported Accommodation Assistance Program and clarifies that a service that receives State funding and uses this funding to provide supported accommodation to persons who are, or are at risk of becoming homeless, is not a residential service under the Act. A new section 4(6) defines the term '*supported accommodation*'.

Clause 61 amends section 5 dealing with the meaning of a resident to remove ambiguity as to who is defined as a resident under the Act. Clause 61 clarifies that a resident is a person who, in the course of the service, occupies 1 or more rooms as their residence, and omits any reference to this being their 'only or main' residence. This clause also inserts new subsections to clarify that a resident is not an associate of the service provider or a relevant employee. A new definition for a *relevant employee* states that this is a person who is employed in the service by the service provider and whose principal place of residence is not 1 or more rooms in the service.

As an example, a relevant employee would be a person who is employed at the service and who lives at the premises for the purposes of their employment (such as a caretaker), but would not include a resident of the service who undertakes some work at the service for payment or a nominal payment or on a voluntary basis.

Clause 62 amends section 6A dealing with the meaning of aged rental scheme and scheme operator to clarify that an aged rental scheme also includes where a scheme operator arranges for another person to provide the food service or personal care service to residents who can pay the scheme operator or the other person for the service.

Clause 63 clarifies section 10(3) by inserting examples of other relevant information, about a previously cancelled registration, that the applicant must provide to the chief executive in their application for registration of the service.

Clause 64 amends section 12(1) to require new information to be included on the registration certificate, relating to the name of any associates of the service provider and the maximum number of residents permitted to occupy the registered premises under the prescribed building requirements. This will improve safety and transparency of information about the service, noting that under the existing section 179 the

information on the registration certificate must also show on the register of residential services kept by the chief executive.

Clause 65 replaces section 19 with a new section to make it clearer that an associate of a service provider is a person who makes decisions in the course of the service that influence the operation of the service or the health, safety or other interests of residents. This clause also provides additional examples to clarify that an associate would include a person who is responsible for managing personal care services or medications or finances and financial transactions of residents. The clause clarifies that a person is not an associate merely because they either or both collect rent from residents or clean or maintain the registered premises and its facilities.

Clause 66 amends section 35(1)(a) to replace '6 months' with '3 months' for the period of time from when a service is registered to the due day for applying for level 1 accreditation of a residential service. This reduced period of time for applying for accreditation is deemed appropriate as meeting accreditation standards is essential to ensuring the service is appropriately operating to protect the health, safety and basic freedoms of residents.

Clause 67 amends section 36(1)(a) similarly to clause 66, but to apply to level 2 accreditation of a residential service.

Clause 68 amends section 38(1)(a) similarly to clause 66, but to apply to level 3 accreditation of a residential service.

Clause 69 amends section 41(b) to insert the words 'or renewal of accreditation' to ensure that an *accreditation decision* by the chief executive also applies to a renewal of accreditation.

Clause 70 inserts a new section 50(6) to clarify that the chief executive may renew the accreditation on conditions the chief executive considers appropriate. This clause ensures consistency between processes for the granting of and renewal of accreditation on conditions, and allows for the continuation of existing conditions for accredited services when their accreditation is being renewed. Subsequent subsections are renumbered with the insertion of the new 50(6).

Clause 71 inserts a new section 69(2) to require an associate of a service provider to notify, in the approved form, the chief executive within 30 days after becoming aware of a change in their criminal history, unless the associate has a reasonable excuse. This clause creates a new penalty of a maximum 100 penalty points if the section is not complied with. This clause ensures that an associate has an onus to advise the chief executive, in the same way as the service provider, for a change in their criminal history. Clause 68 also makes a minor technical amendment to existing subsection 69(2) and renumbers the section.

Clause 72 amends section 70 in relation to the death of a sole service provider and where the personal representative of the individual's estate is taken to be registered as the service provider for 6 months from the date of death. This clause replaces section 70(3) with a new section clarifying that this registration under subsection 70(2) applies subject to certain proviso, including the chief executive deciding the personal

representative is not a suitable person. This new provision clarifies that a personal representative under Part 4 Division 4 is subject to similar suitability requirements to other service providers and needs to be a suitable person to take on the registration of the service, thereby providing a level of protection for residents in the event of the death of a sole provider. The two other provisions in the section are the same as in the existing section but will now apply in the alternative.

Clause 72 also inserts a new section 70(3A) to set out that the chief executive may substitute the personal representative with either an associate of the service provider or another person whom the chief executive is satisfied is a suitable person, if the chief executive decides the personal representative is not a suitable person. Each of these persons are then defined as the *substitute* under the Act. The words 'or the substitute' are inserted in section 70(4) and section 70(6) as a consequence of the new section 70(3A).

Clause 73 consequentially amends section 71(2) and (3) to include the words 'or the substitute', and section 71(6) refers to the definition of *substitute* at section 70(3A).

Clause 74 amends section 75 to omit the words 'start conducting' and insert 'conduct' to minimise ambiguity and make it clear that the requirement for a fire safety management plan under Part 5 Division 1 applies to the operation of all residential services and not only when a person starts conducting a service.

Clause 75 inserts a new section 81A under Part 5 Division 3 to require a service provider for a level 3 accredited service to notify the chief executive of the death of a resident in the service. The notice must be in the approved form and occur within 7 days after becoming aware of the death, unless the service provider has a reasonable excuse. This clause creates a new penalty of a maximum 50 penalty points if the section is not complied with.

Clause 76 amends section 179 to require the chief executive to include the telephone number or email address of the service provider on the register of residential services. This is in addition to the particulars shown on the registration certificate and any accreditation certificate, as required under section 179(2). Clause 76 also inserts a new section 179(2A) to set out the circumstances when *sensitive information* about a service must not be shown on the register, that is, because the service is conducted to provide accommodation to persons who are, or are at risk of becoming, homeless because of domestic violence directed at the person, or where it is in the interests of the wellbeing and safety of residents of the service. Under a new section 2(B), the chief executive may include other relevant information on the register in place of sensitive information, for example the business address of the service provider instead of the address of the registered premises. These exemptions from including information on the register are intended to protect the release of sensitive information to the public as under 179(4) a person, for a fee, may inspect the register or obtain a certificate from the chief executive stating information on the register. Clause 76 renumbers the section as a consequence of inserting the new sections.

Clause 77 inserts a new section 180A giving power to the chief executive to make guidelines under the Act to inform persons about particular matters, how the Act is administered and compliance of service providers. The guidelines may be replaced

and amended, and must be published on the department's website and available free of charge if requested by a person.

Clause 78 inserts a new Part 16 for transitional provisions for section 35, section 36 and section 38 of the Housing Legislation Amendment (Building Better Futures) Act 2017.

Clause 79 amends Schedule 1 to include the renewal of accreditation of the service on a condition (section 50(6)) as a reviewable decision under the Act.

Clause 80 amends Schedule 2 Dictionary to omit the definition *Supported Accommodation Assistance Program*, and to insert a new definition *domestic violence* by referring to the meaning of domestic violence under the *Domestic and Family Violence Protection Act 2012* section 8.

Part 6 Amendment of Residential Tenancies and Rooming Accommodation Act 2008

Clause 81 states that this part amends the *Residential Tenancies and Rooming Accommodation Act 2008*.

Clause 82 inserts new Division 4, 'Prescribed minimum housing standards', into Chapter 1 Part 3 to allow a regulation to prescribe minimum housing standards. Subsection (2) establishes that the regulation can prescribe minimum housing standards for all residential premises and/or inclusions that are covered by the *Residential Tenancies and Rooming Accommodation Act 2008* under a residential tenancy agreement, moveable dwelling agreement or a rooming accommodation agreement. The regulation may also prescribe minimum standards for facilities in a moveable dwelling park.

The minimum housing standards aim to ensure residential premises, inclusions and/or moveable dwelling park facilities meet identified standards to ensure they are fit for human habitation. Subsection (3) provides an indicative list of matters about which a standard may be made. The individual matters listed may or may not have standards prescribed in the regulation, and the list does not preclude a regulation from establishing a standard about another matter not listed.

Subsection (4) clarifies that any minimum standards prescribed in the regulation will be in addition to existing obligations. If an inconsistency arises between the minimum housing standards prescribed in the regulation and any Act, regulation or statutory instrument including other provisions of the *Residential Tenancies and Rooming Accommodation Act 2008* then, to the extent of any such inconsistency, the Act, regulation or statutory instrument would prevail over the prescribed minimum housing standards. An example is given to clarify this by stating that lessors and/or providers may be responsible for meeting standards around cleanliness of the premises or inclusions before the tenancy commences, but not after the tenancy has commenced where the tenant has obligations about cleanliness of the premises or inclusions

throughout the tenancy under section 188(2) of the *Residential Tenancies and Rooming Accommodation Act 2008*

Subsection (5) provides for the regulation to prescribe how minimum housing standards may be monitored and enforced to encourage compliance.

Subsection (6) clarifies the definition of premises to include residential premises which is or can be let under a residential tenancy agreement. This includes agreements for general tenancies, moveable dwelling tenancies and for rental premises. Rental premises are defined in the dictionary as premises in which rooming accommodation is provided.

Clause 83 inserts into section 185(2) and (3), as general obligations of a lessor, the need to ensure the premises and its inclusions comply with any prescribed minimum housing standards at the start of, and during, the tenancy. These obligations are for general tenancy agreements and moveable dwelling agreements, except if the moveable dwelling agreement is for the site only.

Clause 84 inserts into section 186(3) and (4), as general obligations of a lessor for facilities located in a moveable dwelling park, that the lessor must ensure those facilities, including common areas that they have responsibility for, comply with any prescribed minimum housing standards at the start of, and during the tenancy. This obligation does not apply where the lessor is a home owner. The dictionary defines a home owner as per section 8 of the *Manufactured Homes (Residential Parks) Act 2003*.

Clause 85 inserts into section 187(2) and (3), as general obligations of a lessor for the moveable dwelling site, that the lessor must ensure the premises are clean and a fit site for a moveable dwelling and that the premises comply with any minimum housing standards that apply to the premises at the start of, and during the tenancy. These obligations would apply where the agreement is only for the moveable dwelling site, and the premises under the agreement is for the site only. Section 37 clarifies that the *Residential Tenancies and Rooming Accommodation Act 2008* does not apply to site agreements established under the *Manufactured Homes (Residential Parks) Act 2003*.

Clause 86 inserts into section 247(1), as general obligations of a provider of rooming accommodation, that the accommodation provider must ensure the rental premises and inclusions comply with any minimum housing standards that apply to the rental premises or inclusions. Rental premises are defined in the dictionary as premises in which rooming accommodation is provided.

Part 7 Amendment of Retirement Villages Act 1999

Clause 87 states that this part amends the *Retirement Villages Act 1999*.

Clause 88 omits the definition of 'public information document', which is no longer required.

Clause 89 amends the definition of 'what is a capital replacement fund contribution'.

Clause 90 inserts new section 18A to provide a definition of 'general services charges fund' and inserts section 18B to provide a definition of 'general services charge'.

Clause 91 replaces the existing definition of maintenance reserve fund contribution' with a new definition.

Clause 92 amends section 27 to update the process that must be followed in seeking registration of a retirement village scheme to refer to the new village comparison document, and delete reference to the public information document.

Clause 93 amends section 28A to include reference to the new requirements for an approved closure plan for a retirement village, and to also update the time when deregistration takes effect under an approved closure plan.

Clause 94 amends section 35 to include references to the new village comparison document being kept on the retirement village scheme register. For retirement village schemes registered before these amendments commence, this clause also refers to the transitional provision which requires the public information document and notices about inaccuracies in the public information document to be kept on the register.

Clause 95 omits former sections 36 which dealt with inaccuracies in the public information document and 37 which declared that the public information document formed part of the residence contract.

Clause 96 amends section 38 to provide greater clarity about when the chief executive can apply to the District Court to seek the appointment of a manager of a retirement village, about the functions of a manager and the content of management orders.

Clause 97 inserts a new section 38A to provide for the payment of the expenses of a manager of a retirement village appointed under section 38.

Clause 98 amends and renumbers subsections in section 40 which deal with cancelling registration of a retirement village, and also renumbers that section as 40H.

Clause 99 inserts new sections 40 to 40G which introduce new provisions for providing notice about closing a retirement village and the processes for closure.

These provisions include section 40A, which requires the scheme operator to give notice to the chief executive of a proposal to close a retirement village scheme. This section also notes that 'closure' includes a 'wind-down' of a retirement village or ceasing the operation of the retirement village including temporarily.

New section 40B requires the scheme operator to give the residents of the village a closure plan relating to the closure. A fine applies for non-compliance with this requirement.

New section 40C describes what is meant by a 'closure plan', including that it be in the approved form and state matters prescribed by regulation.

New section 40D outlines how a closure plan can be approved. This process includes approval by residents by special resolution at a residents meeting, or by applying to the chief executive if the residents vote against the closure plan. The chief executive may only approve a closure plan if the chief executive is satisfied that the plan provides a clear, orderly and fair process for closing the retirement village. The chief executive can give the scheme operator a written direction to take action to revise a closure plan, after giving the operator the opportunity to make written submissions, before it is approved.

New section 40E provides that the chief executive may provide a written direction for the revision of a closure plan that has been approved by the residents by special resolution at a residents meeting, or by application to the chief executive and provides the process to be followed.

New section 40F requires the retirement village scheme operator to comply with the closure plan and on request, notify the chief executive about how it is being implemented. There is a penalty for non-compliance with either of these requirements.

New section 40G provides that a scheme operator must give the retirement village residents and the chief executive a notice if the scheme operator decides not to proceed with closure of the retirement village. There is a penalty for non-compliance with this requirement. If a scheme operator gives notice that they discontinue the closure, any approved closure plan is no longer approved.

Clause 100 amends section 41 to clarify when the chief executive can cancel the registration of a retirement village scheme.

Clause 100 also inserts a new section 41A so that a person who has been given a QCAT information notice may apply to the tribunal for a review of the decision.

Clause 101 inserts a new Division 5 in Part 2 to provide for the change of a scheme operator. This clause also inserts new sections 41B to 41J which introduce new provisions for about transferring control of a retirement village.

These provisions include section 41B, which provides definitions relevant to this new division.

New section 41C requires the scheme operator to give notice to the chief executive notice about a proposal to transfer control of a retirement village to another person (the 'new scheme operator'). A penalty applies for non-compliance with this section.

New section 41D requires the scheme operator to give the chief executive a transition plan relating to the change of scheme operator. A fine applies for non-compliance with this requirement.

New section 41E describes what is meant by a 'transition plan', including that it be in the approved form and state matters prescribed by regulation.

New section 41F outlines how a transition plan can be approved. The chief executive may only approve a transition plan if the chief executive is satisfied that the plan

provides a clear, orderly and fair process for transitioning control of the retirement village. The chief executive can give the scheme operator a written direction to take action to revise a transition plan, after giving the operator the opportunity to make written submissions, before it is approved.

New section 41G provides that the chief executive may provide a written direction for the revision of a transition plan that has been approved by the chief executive, on the chief executive's own volition or through application to the chief executive by the exiting scheme operator. It also provides the process to be followed.

New section 41H requires the existing and new retirement village scheme operators to comply with the transition plan. There are penalties for non-compliance with this requirement. There is also a requirement that the existing scheme operator and the new scheme operator respond to a request from the chief executive about how the transition plan is being implemented.

New section 41I provides that an existing scheme operator must give the chief executive a notice if they discontinue with the transfer of control of the retirement village scheme's operation, and if that happens, any approved transition plan is no longer approved. There is a penalty for non-compliance.

New 41J provides that if control of a retirement village operation is transferred to a new operator, the new scheme operator has the benefits and the obligations of the previous scheme operator in relation to a residence contract associated with the scheme. This section also requires the new scheme operator to give all residents a notice of the change of scheme operator. There is a penalty for non-compliance.

Clause 102 amends section 44 to omit reference to the obligation to give a new resident the public information document.

Clause 103 amends section 45, which describes the contents of a residence contract, to include the additional information specified in new subsections 45(1)(p) to (t). This section will also allow a regulation to prescribe a term that must be included in a residence contract or prohibit a term that must not. This section will also be amended to require that a scheme operator must not enter a residence contact that is not in the approved form.

Clause 104 amends section 53 to require the scheme operator give to a resident notice that the scheme operator is implementing an approved closure plan.

Clause 105 amends the heading of Division 5 in Part 3 to include reference to 'valuing' the resident's right to reside.

Clause 106 inserts a new subsection in section 56 to include a definition of 'reinstatement work'.

Clause 107 replaces sections 58 and 59 dealing with reinstatement and renovation of an accommodation unit.

New section 58 provides that when ceasing residency, the unit must be left in the same condition it was in when the former resident started occupation of the unit, apart from fair wear and tear and renovations carried out with the agreement of the resident and the scheme operator.

New section 59 applies to reinstatement work that is agreed to be carried out, is carried out by the scheme operator under section 58(2) or by order of the tribunal, sets timeframes for completion and includes a definition of 'vacation date'.

New section 59A requires that, before starting the renovation of a unit, the scheme operator must agree with the resident on a date by which that work will be finished. A dispute about completion of the renovation work is a retirement village dispute. It includes definitions of 'agreed date' and 'renovation work'.

Clause 108 omits sections 61 and 62, which related to who paid for reinstatement work, to allow for the amendments that are being made to the reinstatement process.

Clause 109 amends section 63 to provide that the scheme operator must pay the former resident their exit entitlement the earliest of the day stated in the residence contract; 14 days after the settlement day; 18 months after the termination date or any later day fixed by the tribunal by an order under section 171A or 14 days after the right to reside is terminated under a closure plan.

Clause 110 amends section 64 to clarify that this section does not apply if the former resident's right to reside was terminated under a closure plan.

Clause 111 amends section 65 to clarify that this section does not apply if the former resident's right to reside was terminated under a closure plan.

Clause 112 amends section 66 to insert a provision requiring that, if a former resident's right to reside was terminated under a closure plan, the former resident's exit entitlement is to be worked out as if the right to reside was sold at the agreed resale value.

Clause 113 amends section 67 to have the section apply when a unit is unsold for 3 months after the termination date, instead of 6 months, and apply the section to situations where the former resident's right to reside was terminated under a closure plan.

Clause 114 inserts a new section 67A to require the scheme operator to obtain a valuation of the right to reside when the scheme operator must pay the resident their exit entitlement before resale under section 63(1)(c), and also how the costs of that valuation are to be shared.

Clause 115 amends section 68 to insert a new subsection that provides that the section does not apply when the former resident's right to reside was terminated under a closure plan.

Clause 116 amends section 69 to provide that a scheme operator can refuse to accept an offer to purchase a right to reside when the former resident's right to reside was terminated under a closure plan.

Clause 117 inserts new sections 70AB, 70AC and 70AD.

New section 70AB provides for submissions by the parties about the valuation of the resale value of a resident's right to reside. The valuer must advise the scheme operator and the former resident that they may give the valuer a submission about the resale value.

New section 70AC provides what the valuer must have regard to in determining the value of the right to reside and defines 'capital gain sharing arrangements' for this section.

New section 70AD provides that the valuer may request relevant information from the scheme operator about the retirement village, the accommodation unit or the residence contract.

Clause 118 omits section 74 to 83 which dealt with the form and content of the public information document and other documents relating to retirement village schemes. These requirements are replaced with new requirements.

New section 74 describes the requirements for a village comparison document and material changes to the information in a village comparison document. A penalty applies for non-compliance with this section.

New section 75 describes the requirements for a prospective costs document. A penalty applies for non-compliance with this section.

New section 76 specifies the requirements for a scheme operator to complete and provide a prospective resident with a condition report before the prospective resident starts residing in the unit. Penalties apply for non-compliance with this section.

New section 77 requires the scheme operator to complete and provide a former resident with a condition report at the end of residency. A penalty applies for non-compliance.

Clause 118 omits sections 84 and 85 and inserts new sections 84 and 85.

New section 84 specifies that a scheme operator must give a prospective resident the residence contract, the village comparison document, a prospective costs document, the by-laws for the village and any other document prescribed by regulation. It also includes requirements for changes to the documents, timeframes for provision of these documents, and the details of approved waivers of the timeframes. Penalties apply for non-compliance with this section.

New section 85 provides that a regulation may prescribe what documents relating to the operation of the retirement village may be accessed by a resident or prospective resident under this section.

Clause 120 amends section 86 to clarify that the scheme operator cannot give information that the scheme operator knows is false or misleading to a prospective resident, or to a resident or the chief executive.

Clause 121 inserts new section 86A to require that the scheme operator must maintain a website for the scheme.

Clause 122 amends section 93 so that the capital replacement fund budget must be in the approved form.

Clause 123 amends section 94 to provide for the continued operation of public information documents as outlined in the transitional provision at section 237I in relation to payments into the capital replacement fund.

Clause 124 deletes section 98(4) which referred to the scheme operator having regard to the quantity surveyor's report and using the scheme operator's best endeavours to implement the surveyor's recommendations, which is now dealt with in section 99(1)(b).

Clause 125 amends section 99 to outline the new requirements for the scheme operator to adopt a budget for the maintenance reserve fund. Penalties apply for non-compliance with this section.

Clause 126 replaces the heading for Division 7 in Part 5 and inserts a new heading.

Clause 127 inserts new section 102AA to require the scheme operator to establish and keep a fund for general services and prohibits the use of money in that fund other than for providing general services.

Clause 128 amends section 102A to change references to the general services charges fund and to require that the general services charge budget be in the approved form.

Clause 129 amends section 103 to include references to the general services charge, remove references to the public information document, and prohibit the operator from passing on costs awarded by the tribunal against the scheme operator and legal costs in relation to a retirement village issue.

Clause 130 amends section 104 to refer to 'general services charge' instead of 'charges for general services'.

Clause 131 amends section 105 to change the reference from maintenance reserve fund to general services charges fund. This clause also specifies that 'accommodation unit' used in this section means a part of a retirement village where a resident has an exclusive right to reside or a part of a retirement village that is under construction or being renovated in which a resident will have an exclusive right to reside when the construction or renovation is completed.

Clause 132 omits section 106 replaces it with a new section 106 which limits how the total general services charge can be increased.

Clause 132 also replaces section 107 and clarifies that the increase in the general services charge is allowed to the extent it is attributable to an increase as specified in that section.

Clause 133 amends section 107A to change the reference from 'the charge' to 'the general services charge'.

Clause 134 amends section 108 to omit the reference to public information document and replace this with a reference to the residence contract.

Clause 135 amends section 111 to insert a reference to general services charges fund.

Clause 136 replaces the current section 112 with new section 112 and 112A.

New section 112 requires that the scheme operator must give the resident a quarterly financial statement in the approved form in the circumstances specified.

New section 112A requires that the scheme operator must provide the residents committee, if requested, with a written explanation if there is an increase in expenditure involved in providing general services that varies from the expected expenditure in the general services charge budget for that period.

Clause 137 amends section 113 to include the income and expenditure of the general services charges fund for the financial year, in the financial statements that a resident may request from the scheme operator and requires that financial statements must be in the approved form.

Clause 138 inserts a new Division 10 in Part 5. This division deals with redevelopment of retirement villages, and inserts new sections 113B, 113C, 113D, 113E, 113F, 113G, 113H, 113I and 113J.

New section 113C states that the division does not apply in relation to the redevelopment if every resident of the village was given written notice of the redevelopment before they became a resident.

New section 113D provides that a scheme operator must give the residents notice in the approved form if the scheme operator proposes to redevelop the village without winding-down or stopping the retirement village scheme from operating. A penalty applies for non-compliance.

New section 113E sets out the meaning of 'redevelopment plan'

New section 113F states how a redevelopment plan can be approved by the residents or the chief executive, and in what circumstances. The chief executive can give a direction to the scheme operator to revise the plan before it is approved and the section provides the process the chief executive must follow in doing that. The section requires

that the chief executive can only approve the redevelopment plan if satisfied it provides for a clear, orderly and fair process for running the redevelopment.

New section 113G provides that the plan can be revised by application from the scheme operator or on the initiative of the chief executive. The chief executive may give a direction to the scheme operator that the redevelopment plan be revised and the process that must be followed in that situation. The revised plan may only be approved by the chief executive if it provides for a clear, orderly and fair process for redevelopment.

New section 113H requires that the scheme operator must comply with the redevelopment plan when doing the redevelopment. The scheme operator must tell the chief executive how an approved redevelopment plan is being implemented by the scheme operator, if requested.

New section 113I provides that a scheme operator must give the residents and the chief executive a notice if the scheme operator decides not to proceed with the redevelopment. There is a penalty for non-compliance. If notice to discontinue is given, the approved redevelopment plan is no longer approved.

New section 113J allows that a person who has been given an information notice may apply as provided under the QCAT Act to the tribunal for a review of the decision.

Clause 139 amends section 129B to replace the reference to 'charges for general services' with 'the general services charges fund'.

Clause 140 inserts new Part 8 which sets out the rights and obligations of the scheme operator, residents and others.

New section 135 provides that a scheme operator is to respect the rights of residents of the retirement village and provides specific rights and obligations in the subsections.

New section 136 provides that residents of the retirement village are to respect the rights of other residents and other people in the retirement village and provides specific rights and obligations in the subsections.

Clause 141 inserts into section 167 a subsection which allows a party to a dispute about reinstatement or renovation work to go straight to the tribunal even if the parties have not participated in mediation, to ensure these matters are resolved as quickly as possible.

Clause 142 replaces section 170 with a new section 170 which enables the resident to seek an order from the tribunal that the residence contract be set aside if the relevant information documents were not provided to the resident or if false or misleading information was given to the resident and the resident has been materially prejudiced by that contravention.

Clause 143 amends section 171 to refer to former section 58(2) or section 59A(4) and makes reference to the relevant transitional provision.

Clause 144 inserts new section 171A allowing a scheme operator to apply to the tribunal for an order extending the time by which the scheme operator must pay a former resident their exit entitlement under section 63(1)(c) and what the tribunal must be satisfied of before it makes an order.

Clause 145 amends section 191 to update references to 'person' instead of 'resident' and to refer to new section 171A.

Clause 146 inserts new section 195 which provides that the tribunal may make an order that the scheme operator pay a former resident their exit entitlement by instalments on stated days.

Clause 147 amends section 221 dealing with evidentiary provisions to allow that a condition report about a unit is evidence of the unit's condition on the date the report was signed by the resident or if not signed, when the report was made.

Clause 148 inserts new section 227AA which states that a form may be approved for use as a residence contract or other document that applies to documents of that type generally or is limited by reference to stated matters or how this applies if there is no approved form at the time the document is adopted.

Clause 149 amends the regulation making power in section 228 to provide that a regulation may impose a requirement about the provision of equipment in a retirement village for public safety.

Clause 150 inserts new Division 3 in Part 15. This clause provides for transitional provisions that deal with the following matters.

New section 227H provides definitions for the division.

New section 237I provides for continued operation of public information documents and particular former provisions.

New section 237J provides for an approved form for use as a public information document.

New section 237K provides for the continued operation of former provisions relating to reinstatement work.

New section 237L provides for a village comparison document to be prepared for retirement village schemes that are already registered.

New section 237M provides that the 18 month time limit for paying a former resident their exit entitlement starts on the date this section commences.

New section 237N provides that updating the resale value under former section 67 continues to apply in relation to a residence contract for which the termination date was before the commencement.

New section 237O provides that if a request is made for quarterly financial statements, so far as it relates to the general services charges fund, the request is taken to be a request for a list, for the quarter, of the expenditure involved in providing each general service.

New section 237P provides a transitional regulation making power which expires one year after commencement, to facilitate transition from the operation of the pre-amended Act to the amended Act where the Bill does not make adequate or sufficient provision.

Clause 151 amends the dictionary for the Act.