

# **Residential Services (Accreditation) (Retirement Village Schemes) Amendment Regulation 2025**

Explanatory notes for Subordinate Legislation 2025 No. 45

made under the

*Residential Services (Accreditation) Act 2002*

## **General Outline**

### **Short title**

*Residential Services (Accreditation) (Retirement Village Schemes) Amendment Regulation 2025.*

### **Authorising law**

Sections 4 and 184 of the *Residential Services (Accreditation) Act 2002*.

### **Policy objectives and the reasons for them**

The objective of the *Residential Services (Accreditation) (Retirement Village Schemes) Amendment Regulation 2025* (Amendment Regulation) is to amend the *Residential Services (Accreditation) Regulation 2018* (RSA Regulation) to permanently exempt retirement village schemes from the *Residential Services (Accreditation) Act 2002* (RSA Act). The Amendment Regulation responds to the expiry of the temporary exemption for retirement village schemes from the RSA Act on 30 June 2025 and is intended to:

1. provide on-going certainty to stakeholders about the application of the RSA Act to retirement village schemes
2. provide an appropriate and proportionate response to issues associated with food and personal care services in retirement villages
3. contribute to delivering a legislative and regulatory environment built on stability and certainty (including for retirement villages) which will deliver strong investor confidence in Queensland.

Retirement villages in Queensland are primarily regulated under the *Retirement Villages Act 1999* (RV Act). The RV Act requires retirement village schemes to be registered and aims to promote consumer protection and fair trading practices in operating retirement villages and in supplying services to residents.

The RSA Act regulates the conduct of residential services to protect the health, safety and basic freedoms of residents, encourages service providers to continually improve the way they conduct residential services and supports fair trading in the residential service industry. The objects of the RSA Act are achieved by maintaining a registration and accreditation system, under which a residential service is accredited to provide a type of service only if that service is provided in a way that meets minimum standards.

Some retirement village schemes, particularly those providing food or personal care services to residents that have the right to reside in a retirement village scheme under a lease or licence, may also be a residential service as defined in the RSA Act.

Retirement village schemes have been exempted from the RSA Act since the regulatory framework commenced in 2002 based on an industry accreditation scheme providing an alternative standards framework. In 2018 a temporary exemption was established for retirement village schemes without requiring industry accreditation for the period specified in the RSA Regulation. This period was initially specified as two years after commencement and was extended by subsequent regulations in 2020 for a further four years and in 2022 to the end of the day on 30 June 2025.

The Australian Retirement Village Accreditation Scheme (ARVAS) was established in 2019 and is co-owned by two organisations, the Property Council of Australia and the Aged and Community Care Providers Association (now Ageing Australia), with accreditation services provided by Quality Innovation Performance Limited.

The temporary exemption ensured retirement village schemes would not be subject to dual regulation that would impose costs on operators that are likely be passed on to consumers. It also allowed emerging matters and their interactions with Queensland's regulatory environment for the oversight of privately funded care provided in retirement village schemes to be assessed, including:

- changes to industry-led accreditation schemes
- outcomes of the *Royal Commission into Aged Care Quality and Safety* and *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*.

## **Achievement of policy objectives**

The policy objectives of the Amendment Regulation are achieved by amending the RSA Regulation to provide an on-going exemption to retirement villages from the RSA Act. The policy objectives are also achieved by monitoring retirement villages to identify if significant issues related to food and personal care services emerge that would warrant a further policy response.

This policy approach is appropriate and proportionate as it maintains the status quo in place since at least 2018 (when the temporary exemption was introduced), and issues regarding retirement village scheme operator provided food and personal care that would warrant a legislative policy response have not become prevalent during this time.

Existing protections and remedies apply to retirement village residents receiving food or personal care services, including for example those under general contract law, the *Health Ombudsman Act 2013*, the *Food Act 2006*, the Australian Consumer Law and, for people receiving food or care through the in-home aged care system, regulation of these services by the Commonwealth.

The Amendment Regulation will provide on-going certainty to stakeholders about the application of the RSA Act to retirement village schemes. This recognises that the RSA Act is not an appropriate scheme for regulating retirement villages because it focuses on a different form of housing, and it would only apply to some retirement village schemes providing food or personal care services. These schemes are where residence contracts grant a leasehold or licence based right to reside in a retirement village and would not apply to contracts granting residents a freehold interest.

Amending the RSA Regulation achieves the policy objective of contributing to delivering a legislative and regulatory environment built on stability and certainty (including for retirement villages) which will deliver strong investor confidence in Queensland. The Amendment Regulation is a proportionate and appropriate policy response that acknowledges the limited concerns raised by stakeholders about food or personal care services in retirement villages.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the objectives of the RSA Act

## **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is consistent with the policy objectives of other legislation. The Amendment Regulation reinforces the role of the RV Act as the primary legislation regulating the operation of retirement villages. This will avoid the expense and uncertainty of having two regulatory schemes with different objectives and requirements applying to some retirement villages.

## **Alternative ways of achieving policy objectives**

Alternative options were considered including: no longer exempting retirement village schemes from the RSA Act; exempting retirement village schemes accredited by a body recognised by the chief executive (retirement village schemes that are ARVAS accredited); and further extending the temporary exemption in place since 2018.

No longer exempting retirement village schemes from the RSA Act or only exempting retirement villages that are ARVAS accredited would be a disproportionate policy

response because limited issues with food and care services in retirement villages have been identified, none of which currently warrant a legislative response. Also, these options would impose significant regulatory burden and costs on industry, which would be passed onto residents. These alternative options do not meet the objectives of government action as they do not contribute to delivering a legislative and regulatory environment built on stability and certainty.

Implementing a temporary exemption would also be an inappropriate response that does not meet the objectives. The current temporary exemption has been in place for approximately seven years and was created through transitional provisions in the RSA Regulation. The intention of the transitional provisions included to provide sufficient time for villages to obtain ARVAS accreditation. However, an exemption based on ARVAS accreditation is not appropriate. Only approximately 10% of Queensland retirement villages have obtained ARVAS accreditation to date, despite this accreditation scheme being established in 2019. Requiring ARVAS accreditation would impose costs on retirement villages (which would be passed on to residents) which is unnecessary given there is no evidence of significant issues regarding food or personal care services. ARVAS accreditation costs are approximately \$3,000 - \$4,000 per village initially, and every three years thereafter. Other operational costs can be incurred by villages for staffing resources and time to obtain and maintain accreditation. Concerns were also raised by resident stakeholders about the effectiveness of industry accreditation schemes generally in safeguarding residents and in assisting residents with issues and disputes.

## **Benefits and costs of implementation**

Amending the RSA Regulation to permanently exempt retirement villages from the requirements of the RSA Act will not increase costs or regulatory burden. The Amendment Regulation is deregulatory as it will remove the potential imposition of requirements on business if the exemption expired. This will avoid imposition of increased costs on retirement villages, which would be passed onto residents.

The Summary Impact Analysis Statement for the Amendment Regulation concluded that no further regulatory impact analysis is required under the Better Regulation Policy.

There will be minimal costs associated with the Department of Housing and Public Works (the department) monitoring if issues related to food and personal care services emerge. This monitoring will be conducted through consideration of any complaints received and by engaging with industry and stakeholder representative groups at regular meetings with the department and will be considered business as usual activity.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles.

## Consultation

To support the policy analysis leading to the development of the Amendment Regulation, the department consulted with the following stakeholders through in-person or online meetings in December 2024:

- Queensland Retirement Village and Park Advice Service
- Association of Residents of Queensland Retirement Villages
- Aged and Community Care Providers Association (now Ageing Australia)
- Property Council of Australia
- Urban Development Institute of Australia.

The consultation process sought to:

- understand models of food and personal care services offered by retirement village operators
- identify any issues associated with food and personal care services in retirement villages
- obtain feedback on the appropriateness of an exemption for retirement villages schemes from the RSA Act
- obtain feedback about whether ARVAS accreditation was considered to be an appropriate basis for an exemption from the RSA Act.

Stakeholder feedback and consideration of complaints received to date by Regulatory Services indicated that there were not prevalent issues with food or personal care service provision in retirement villages that would warrant a legislative policy response.

Stakeholders did not support regulation of retirement villages by the RSA Act. Stakeholders also did not support relying on ARVAS accreditation to exempt retirement villages from the RSA Act. Industry stakeholder representatives noted the costs associated with obtaining and maintaining ARVAS accreditation are significant. Resident stakeholder representatives were concerned that accreditation related costs would be passed on to residents and did not consider industry accreditation schemes to provide a net benefit for residents.

In accordance with the Queensland Government Better Regulation Policy, an Impact Analysis Statement (IAS) has been prepared and approved by the Director-General, Department of Housing and Public Works and Minister for Housing and Public Works and Minister for Youth.

The IAS indicates that no further regulatory impact analysis is required under the *Queensland Government Better Regulation Policy* as the proposal to amend the *Residential Services (Accreditation) Regulation 2018* to permanently exempt retirement villages from the requirements of the *Residential Services (Accreditation) Act 2002* will not increase costs or regulatory burden. The proposal is deregulatory and aims to remove the requirements on business that would arise when the exemption expires to avoid increased costs on retirement villages (which would be passed onto residents).