

Registered interest holders

There are certain rights, fees and charges that apply when you permanently leave a retirement village, either through the sale of your unit or upon your death.

You are a registered interest holder in a retirement village if you are:

- an owner in a strata scheme or a community land scheme retirement village,
- an owner of shares in a company title scheme giving you a residence right in a retirement village, or
- the holder of a registered long-term lease in a retirement village that entitles you to at least 50% of any capital gain that may be made when your unit is sold. A registered long term lease is a lease that has a term of 50 years or more, or runs for the duration of your life.

When does my residence right end?

Your right to live in your retirement village unit only ends when:

- the sale of your unit is completed (if you are an owner), or
- your long term lease is assigned (if you are a holder of long term lease of 50 years or more), or
- you permanently vacate your unit (if you have a registered long-term lease sharing at least 50% of the capital gain).

Until your unit is sold or your lease is assigned, you retain the legal right to live in your unit and remain responsible for all costs associated with the ownership of that unit, for example recurrent charges.

Selling your unit

If you decide to sell your unit, you can:

- set the sale price, and
- appoint a licensed agent, or the operator if they are a licensed agent, to help you sell your unit. You are not required to appoint the operator, but can choose to do so if you wish.

Must I pay the costs of selling my unit?

All costs of the sale of your unit are shared between you and the operator in the same proportion that you would share any capital gain from the sale. However, if you wish to appoint an agent to sell your unit (rather than using the operator or an agent selected by the operator), you alone will have to pay any commission to that agent.

A capital gain is the money you make on the sale of your unit, calculated by subtracting the amount you paid for the unit from the sale price. If your village contract provides that capital gains from the sale of your unit are to be shared on a 50/50 basis, then any costs incurred from the sale of your unit will also be split between you and the operator on a 50/50 basis.

Can the operator refuse to enter into an agreement with the buyer of my unit?

You are required to refer any people who are interested in purchasing your unit to the operator so they can comply with their disclosure obligations under the Act and provide the prospective resident with information about the village more generally.

In some circumstances the operator may refuse to enter into an agreement with a purchaser. For example, if the person is under the required age for entry or if they are not capable of living independently. However, the operator must have a reasonable excuse and if you think the operator has unreasonably refused to enter into a contract with a purchaser of your unit, you can apply to the NSW Civil and Administrative Tribunal for an order.

Departure fees

A departure fee, also known as an exit fee or deferred management fee, is the amount that is payable under a village contract to the operator when you permanently leave the village. This fee can be a significant amount so check your village contract for details on how to calculate your departure fee.

Your departure fee is payable out of the proceeds of the sale of your unit.

For details on methods of calculating departure fees and what to do if you dispute the calculation of your departure fee, read page on the Fair Trading website.

Recurrent charges

You must continue to pay recurrent charges for general services when you leave your unit. Payment generally continues until a new resident enters into a contract with the operator or starts living in the unit (whichever is earlier). Recurrent charges for general services are those charges which relate to services provided by the operator of the village that are available to all residents, for example management and administration services or gardening and maintenance services. They are not charges associated with optional extras, see 'payment of recurrent charges relating to optional services' below.

If you share any capital gain made from the sale of your unit with the operator, you (or your estate) only need to pay the full amount of recurrent charges for the first 42 days after you leave. After this time, you and the operator share the cost of the recurrent charges in the same proportion as you share the capital gain. For example, if you and the operator share any capital gain on a 50/50 basis, you also share the cost of recurrent charges 50/50 after 42 days. This continues until a new resident enters into a contract with the operator or starts living in the unit (whichever is earlier).

Payment of recurrent charges relating to optional services

Recurrent charges for optional services stop as soon as you permanently vacate the premises (including upon your death). You do not need to continue to pay these after you permanently leave the village.

Optional services may include:

- laundry services,
- food and meal services, such as Meals on Wheels, or
- home cleaning services.

Is interest payable on unpaid recurrent charges?

Yes. If you (or your estate) fail to pay the recurrent charges that are due and payable after you leave the village, the operator can charge interest on the unpaid amount. The law sets the maximum interest rate an operator may charge, which is calculated by reference to the cash interest rate set by the Reserve Bank of Australia.

Payment for repairs

In some cases you may be required to pay for repairs when you permanently leave your unit. You must leave the unit in the same condition as when you moved in, less fair, wear and tear. This means you are responsible for any damage beyond what occurs through normal use or happens with ageing.

You cannot be required to pay for any repairs or other work which is over and above reinstating the premises to its original condition, unless you entered into your contract before 1 July 2000. For more details, refer to the 'Must I renovate when I leave?' paragraph in this section.

What is fair wear and tear?

Fair wear and tear is the deterioration that occurs over time with the use of the unit even though the unit receives reasonable care and maintenance. Such deterioration could be caused by:

- exposure
- time
- ordinary use.

You are only responsible for negligent, irresponsible or intentional actions that cause damage to the unit. Some examples are provided below to help explain the difference:

Fair wear and tear - you are not liable	Damage - you are liable
Faded curtains or frayed cords	Missing curtains or torn by resident's cat

Furniture indentations and traffic marks on the carpet	Stains or burn marks on the carpet
Scuffed wooden floors	Badly scratched or gouged wooden floors
Worn kitchen bench top	Burns or cuts in bench top
Loose hinges or handles on doors or windows and worn sliding tracks	Broken glass window caused by resident
Cracks in walls from movement	Holes in walls caused by resident moving shelving or picture hooks
Water stain on carpet from rain through leaking roof or bad plumbing	Water stain on carpet caused by overflowing bath or indoor pot plants

Must I renovate the unit when I leave?

No. The operator cannot require you to renovate your unit when you leave if your village contract started after 1 July 2000.

If you started living in your unit before 1 July 2000, check if your contract contains a refurbishment clause. If it does, you may be required to pay for renovation work that is more than what would be required to reinstate the unit to the condition it was in when you started living there. The operator must give you at least three quotes for the cost of the work unless you agree to use the tradespersons who ordinarily carry out maintenance in the village.

Payment to you on leaving the village

The operator must provide you with any refundable component of your ingoing contribution or the payment of the proceeds from the sale of your unit, less any fees and charges. This should occur within 14 days after a new resident enters into a contract with the operator or when the operator receives full payment from a new resident for your unit. The same 14-day period also applies for

any payments you are entitled to if you terminate your village contract during the settling-in period.

However, if your village contract specifies an earlier date, your refund must be given to you in accordance with your contract.

If you own a unit in a strata retirement village, the proceeds of the sale of your unit will be paid to you by the agent, rather than the operator (unless the operator is also the agent).

If your village contract provides that a share of any capital gain made on the sale of your unit must be paid to the operator, this amount will also be deducted from the proceeds of sale of your unit when you leave the village.