# Review of the Retirement Villages Act 2003: Options for Change

Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development (HUD) is reviewing the Retirement Villages Act 2003, and its associated regulations and codes. We have developed proposals addressing a broad range of topics relating to retirement village living, which you can read about in the discussion paper Review of the Retirement Villages Act 2003: options for change. We want to hear from retirement village residents, their families, prospective residents, operators, sector bodies, legal advisors, and anyone else who has an interest in retirement villages.

### How to use this template

We have created this shorter version template for those who can't, or do not wish to, use our online survey tool or the longer version. This template contains the same questions as the online survey, and can either be printed and filled in by hand, or you can type your answers into the text fields using a PDF viewing programme such as Adobe Acrobat or Preview.

If you wish to provide a longer written response to a question, please do this on a separate piece of paper, and attach it to this form.

#### You can:

- comment on all, or some, of the proposals
- answer all, or some, of the survey questions
- tell us anything else you think we should know that is relevant to the review.

Any questions marked with an asterisk (\*) are required and the rest are optional.

We recommend that you read the <u>discussion paper</u> before you complete the survey. A <u>summary version</u> is also available.

If you have chosen to fill this template out online, you can email your completed submission to <a href="mailto:RVAreview@hud.govt.nz">RVAreview@hud.govt.nz</a>. If you have printed this template and filled it out by hand, you can either scan the document and email it to <a href="mailto:RVAreview@hud.govt.nz">RVAreview@hud.govt.nz</a>, or post it to the following address:

Retirement Villages Act Review
Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development
PO Box 82
Wellington 6140

The closing date for submissions is 5pm, Monday 20 November 2023.

## **Submitter information**

Please provide some information about yourself. The information will be used to help us understand how different groups view the proposals for change. Any information you provide will be stored securely.

* Your name:				
Organisation (if applicable):				
* Your email address:				
Your phone number:				
The best way to	describe yoursel	f or your organisa	ation:	
<ul> <li>□ Retirement village resident</li> <li>□ Retirement village operator</li> <li>□ Whānau/family of retirement village resident</li> <li>□ Sector body or association</li> <li>□ Iwi/Māori organisation</li> </ul>		<ul> <li>□ Lawyer/law firm</li> <li>□ Real estate agent</li> <li>□ Prefer not to say</li> <li>□ Other individual (please describe below)</li> <li>□ Other organisation (please describe below)</li> </ul>		
Your ethnicity:				
<ul><li>□ Pākehā/NZ European</li><li>□ Māori</li><li>□ Pasifika</li></ul>			☐ Asian ☐ Prefer not to say ☐ Other:	
Your region:				
<ul><li>□ Northland</li><li>□ Auckland</li><li>□ Waikato</li><li>□ Bay of Plenty</li><li>□ Gisborne</li><li>□ Taranaki</li></ul>		<ul><li>☐ Hawkes Bay</li><li>☐ Whanganui-N</li><li>☐ Wellington</li><li>☐ Nelson-Tasma</li><li>☐ Marlborough</li><li>☐ West Coast</li></ul>		<ul><li>☐ Canterbury</li><li>☐ Otago</li><li>☐ Southland</li><li>☐ Overseas (please specify below)</li></ul>

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### Use and release of information

We may publish a submissions analysis. This could include a summary of submitters' views and may include the names of individuals or organisations that have made submissions. HUD officials may contact submitters directly if we require clarification of any matters in submissions.

The Privacy Act 2020 establishes certain principles relating to the collection, use and disclosure of information about individuals by various agencies, including HUD. Any personal information you provide us will only be used to assist in the development of policy advice in relation to the issues in this discussion paper. You have the right under the Privacy Act to access your personal

Follow up
Reason for withholding submission in whole or in part:
¹□ I consider my submission, or identifiable parts of my submission, should be withheld from release and have stated my reasons and the grounds that apply under section 6 or section 9 of the OIA for consideration by HUD.
$^{\circ}\Box$ I consent to my submission being released if requested under the Official Information Act 1982.
Any person may make a request for submissions under the Official Information Act 1982 (OIA). Please state below if you have any objection to the release of the information contained in your submission, and in particular, which parts you consider should be withheld. We will take such objections into account and will consult with those submitters when responding to requests under the OIA.
□ Please tick the box if you <u>do not</u> wish to have your name or other personal information included n any information about submissions we may publish.
Please clearly state below, and in any email or covering letter, if you do not wish your name, or any other personal information, to be included in the summary of submissions.
mornation and request any corrections to that information using the email or address above.

Are you happy for HUD to contact you if we have any questions about your submission?

□Yes

□No

Overview of the review – refer to page 18 of the discussion paper
<b>Q. 1:</b> Do you agree with the scope and objectives of the review? (See paragraphs 20-24 of the discussion paper) Why/why not?
□Yes □No □Not sure
<b>Q. 2:</b> Do you have any comments on how the proposed changes, by themselves and collectively, might affect different parts of the sector (Such as different types of villages, residents and other stakeholders)? (See paragraphs 25-28 of the discussion paper)
<b>Q. 3:</b> Do you have any information you could share on Māori interests in and experiences of retirement villages that we should take into account in the review? (See paragraphs 29-32 of the discussion paper)
Disclosure statements – refer to page 28 of the discussion paper
<b>Q. 4:</b> Which of the proposed options for new disclosure documents do you agree with? Please give reasons for your answer, including any alternative suggestions about how the issues with disclosure documents could be addressed. (See paragraphs 46-57 of the discussion paper)
<ul> <li>□ Option 1 – A Village Comparison and Information Statement</li> <li>□ Option 2 – A new shorter Disclosure Statement</li> <li>□ Neither of these</li> </ul>
<b>Q. 5:</b> Is any information missing from the proposed documents? If yes, please tell us what this is. Please refer to appendices 1, 2 and 3 of the discussion paper.
□Yes □No □Not sure
<b>Q. 6:</b> Would the proposals to deal with false and misleading statements and inconsistency between a disclosure document and an ORA address the issues we have outlined? Please give reasons for your answer, including any alternative suggestions about how these issues could be addressed. (See paragraphs 58-61 of the discussion paper)
□Yes □No □Not sure
Q. 7: Please add any other suggestions you have for improving the retirement villages disclosure regime.

If you wish to provide a longer written response to a question, please do this on a separate piece

of paper, and attach it to this form.

Occupatio	n right a	<b>greements</b> – refer to page 35 of the discussion pap	er
your reasons	s, including any	ed options for standardising ORAs do you agree with? Please give y suggestions for how the issues with ORAs could be addressed. (S endix 4: Proposed standardised layout for ORA in the discussion pap	ee
•	Standardising	g the format (i.e., the headings and layout) g both the format and some of the terms	
	l? Please give	be standardised in ORAs, and which terms <u>should not</u> be us your reasons. (See Appendix 5 – Standardisation of terms in th	ie
	• •	bes of retirement villages that the proposed standardised format wou us your reasons.	ıld
□Yes	□No	□Not sure	
		rently included in ORAs that could be considered unfair to resident hy are they unfair?	s?
□Yes	□No	□Not sure	
	s, who or whic	ower be included in the Act to declare certain terms in ORAs to be h body should hold this power? (See paragraphs 90-92 of the	
□Yes	□No	□Not sure	
and what add	ditional measu	terms which may breach a resident's privacy? If yes, what are they ures are required to address potential privacy breaches? (See discussion paper)	r
□Yes	□No	□Not sure	
	•	ers be able to provide intending residents with legal advice on ur reasons. (See paragraph 102 of the discussion paper)	
□Yes	□No	□Not sure	
Maintenan discussion pa	-	ator-owned chattels and fixtures – refer to page 43 of the	
•	•	the proposal to amend the definition of 'retirement village property' or-owned unit chattels and fixtures? Please give us your reasons.	to
□Yes	□No	□Not sure 5	
•	provide a long	ger written response to a question, please do this on a separate pie	се

•	•		o provide a list of operator-owned g residents? Please give us your
□Yes	□No	□Not sure	
(including the	direct cost of sident or their	these) of operator-owned chattels	pility for maintenance and repairs and fixtures to the operator, except as damage or loss? Please give us
□Yes	□No	□Not sure	
•	•	the proposal to clarify that marks as 'fair wear and tear'? Please give	s due to use of mobility aids and ve us your reasons.
□Yes	□No	□Not sure	
•	•		s to meet the cost of replacing or ey wear out? Please give us your
□Yes	□No	□Not sure	
<b>Q. 20:</b> If intro	duced, should	I the proposals apply to existing OF	RAs? Please give us your reasons.
□Yes	□No	□Not sure	
Q. 21: If there		ues with maintenance and repairs t	that we should be aware of, please
A simple discussion pa		ve dispute resolution sch	<b>eme</b> – refer to page 49 of the
independent alternative su	of retiremen	t village operators? Please give	dispute resolution scheme that is us your reasons, including any cheme could be addressed. (See
□Yes	□No	□Not sure	
□ a dispute r	esolution sch	eme be delivered by: eme provider I commissioner	□ neither of these?

Please give	us your reaso	ns.	
	here the opera	•	ite to the costs of resolving disputes between e dispute)? If yes, what costs should residents
□Yes	□No	□Not sure	
<b>Q. 25:</b> Shoul	ld legal repres	entation be limited in a	new scheme? If yes, how should it be limited?
□Yes	□No	□Not sure	
resolution so	cheme for ope dispute in the	erators or for residents	n the costs of the current complaint and dispute ? For example, if you have been a party to a de information on the costs you faced (the type
a new dispu	te resolution s		is free for residents to access be needed under give your reasons and suggestions for how it cussion paper)
□Yes	□No	□Not sure	
_	om retireme cussion paper	_	nto aged residential care – refer to page
intending re	sidents? Plea		of aged residential care should be provided to ons, including details if you answered 'other cussion paper)
12 months  ☐ Current or dated point i	ccupancy leven	•	□Other information □No information □Not sure
be included		e new disclosure doc	ged residential care unit cannot be guaranteed uments? Please give us your reasons. (See
□Yes	□No	□Not sure	
			erring from an independent living unit to aged t of the review, please tell us about them.

Q. 31: Should operators be allowed to charge aged residential care residents in ORA care suited a second fixed deduction ('deferred management fee')? Please give us your reasons, including if it should it be capped or limited in some way. (See paragraphs 179-180 of the discussion paper
□Yes □No □Not sure
<b>Q. 32:</b> Do you have information on different practices across the sector relating to ORAs fo aged residential care you can share with us, including the different terms and conditions offered? For example:
<ul> <li>What kinds of different terms and conditions do operators offer where a resident has a second ORA for living in the same village?</li> <li>Is it common practice for operators to charge a second fixed deduction or is there variability</li> </ul>
<ul> <li>across the sector?</li> <li>Where a second fixed deduction is charged, does the percentage increase by length of stay and at what percentage is it capped?</li> </ul>
<ul> <li>What potential implications of stopping or limiting second fixed deductions should we be aware of, such as increased weekly fees for residents, or reduced new supply of aged residential care facilities?</li> </ul>
Minimum building standards for retirement villages – refer to page 70 of the discussion paper
Q. 33: If there any other issues with minimum building standards that we have not covered please tell us about them.
<b>Q. 34:</b> Do you or someone you know live in a retirement village unit that is regularly cold or damples, please tell us about it.
□Yes □No □Not sure
<b>Q. 35:</b> Should retirement villages be upgraded to meet certain building standards, such as the healthy homes standards? Please give us your reasons.
□Yes □No □Not sure
<b>Q. 36:</b> Is the design of your retirement village age-friendly and accessible to support residents to age in place? If no, what changes would be needed?
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If you wish to provide a longer written response to a question, please do this on a separate piece of paper, and attach it to this form.

[UNCLASSIFIED]

□Yes	□No	□Not sure
Repayme	nt of the res	sident's capital sum – refer to page 72 of the discussion paper
<b>Q. 37</b> : Do yo	วน agree with a	any or all of the following? You can tick more than one box.
period after		operators to repay a former resident's capital sum within a fixed been terminated and the unit has been fully vacated, and if so, how d be?
unit remains	vacant after s	
☐ Neither o	r these (See pa	aragraphs 208-213 of the discussion paper).
Please give could be add	•	ns, including any additional suggestions for how the issues covered
<b>Q. 38:</b> Whic	h option/s do y	ou consider would most improve fairness for residents?
<b>Q. 39:</b> What	impacts would	d the proposed options have for operators?
	imeframe beca	be able to apply for an exemption from the proposed mandatory ause of undue financial hardship? If yes, what should qualify as undue
□Yes	□No	□Not sure
exempt from	n the proposed	s of retirement villages (for example not-for-profit villages) be either mandatory repayment timeframe or subject to a longer repayment your reasons.
□Yes	□No	□Not sure
	-	operators have to relicense a unit before they need to start paying ent? Please give us your reasons.
for operator		es the Interest on Money Claims Act 2016 provide a fair interest rate er residents if they have not relicensed the unit within six months?

[UNCLASSIFIED]

□Yes	□No	□Not sure		
<b>Q. 44:</b> If implemented, should the proposal to introduce a mandatory repayment timeframe for residents' capital sums apply to existing ORAs? Please give us your reasons.				
□Yes	□No	□Not sure		
	•	hould the proposal to require operators to pay interest on former ply to existing ORAs? Please give us your reasons.		
□Yes	□No	□Not sure		
Stopping	outgoings a	and other fees – refer to page 79 of the discussion paper		
<b>Q. 46:</b> Do you agree with the proposal to require operators to stop charging weekly fees upon a unit being vacated or shortly after? Please give us your reasons, including any additional suggestions for how the issues with outgoings and other fees can be addressed. (See paragraph 236 of the discussion paper)				
□Yes	□No	□Not sure		
	<b>Q. 47:</b> Should the proposal to require operators to stop charging weekly fees upon a unit being vacated or shortly after apply to existing ORAs? Please give us your reasons.			
□Yes	□No	□Not sure		
Fixed deductions – refer to page 81 of the discussion paper				
<b>Q. 48:</b> Do you agree with the proposal to require fixed deductions to stop accruing upon a unit being vacated or very shortly after? Please give us your reasons, including any additional suggestions for how issues with fixed deductions can be addressed. (See paragraphs 248-249 of the discussion paper)				
□Yes	□No	□Not sure		
Q. 49: Should limits be placed on the size of the fixed deduction? Why/why not?				
□Yes	□No	□Not sure		
<b>Q. 50:</b> Is greater transparency needed about the specific costs covered by fixed deductions? Why/why not?				
□Yes	□No	□Not sure		
<b>Q. 51:</b> If intro	oduced, should	d the proposal apply to existing ORAs? Why/why not?		

□Yes	□No	□Not sure
Treatment	of capital of	gains/losses – refer to page 83 of the discussion paper
including any	•	either or both of the following? Please give us your reasons, ggestions for how the issue in this section can be addressed. (You x)
resale of thei	r unit to the sa sal that opera nts liable for o	that operators can only make a resident liable for a capital loss on ame extent as they would be entitled to any share of the capital gains. ators that share capital gains with residents would not be required to capital losses to the same extent? (See paragraphs 257-258 of the
Q. 53: If implereasons.	emented, sho	ould the proposal apply to existing ORAs? Please give us your
□Yes	□No	□Not sure
	•	er issues with capital gains or losses from the relicensing of a unit in ould be addressed in the review, please tell us about them.
Future-pro	•	lefinition of retirement village – refer to page 86 of the
	definition of r ussion paper)	etirement village easy to understand? Why/why not? (See Appendix
□Yes	□No	□Not sure
Q. 56: Are an ones.	ny aspects of t	the definition unnecessary or redundant? If yes, please tell us which
□Yes	□No	□Not sure
Q. 57: Does needs? Why		enable operators to respond to changing demographics and housing
□Yes	□No	□Not sure
Insurance discussion pa		etirement village operators – refer to page 88 of the
		11

Q. 58: Do you agree with any or all of the following? Please give us your reasons, including any additional suggestions for how issues with insurance cover can be addressed. (You can tick more than one box)					
sufficient (alovillage is entional The propositions), damage fault for the lo	engside other in rely destroyed sal to restrict of or destruction oss, damage of	that operators maintain insurance policies that, at all times, are funds) to pay out all residents' capital sums in the event that a d, unable to be reinstated and all ORAs are terminated. Operators from passing on any insurance excess to residents if the n relates to retirement village property; and if the resident was not at or destruction.  Aragraphs 280-285 of the discussion paper).			
should have	<b>Q. 59:</b> Do you foresee any issues with the proposal to remove the requirement that operators should have "full replacement cover" and instead allow them to obtain sum-insured and collective type insurance policies? Why/why not?				
□Yes	□No	□Not sure			
		ition period sufficient for operators to update insurance policies or ne proposed sufficient coverage requirement? Why/why not?			
□Yes	□No	□Not sure			
	•	scenarios in which operators' ability to pass on insurance excess ld be restricted? If yes, please tell us about them.			
□Yes	□No	□Not sure			
Security fo	r residents	capital sums – refer to page 92 of the discussion paper			
•	perty security	tatutory supervisors should have the ability to hold both land and on behalf of residents? Why/why not? (See paragraphs 299-301 of			
□Yes	□No	□Not sure			
<b>Q. 63:</b> Would legislating that statutory supervisors have to hold both types of security affect banking arrangements? If yes, how?					
□Yes	□No	□Not sure			
	or is it sufficier	s to empower a statutory supervisor to hold a GSA, should this be nt for this to rank second in priority behind the bank lender? Please			

<b>Q. 65:</b> What impact would requiring auditors of retirement villages to report to statutory supervisors if there was concern about solvency have on the security of residents' capital sums?		
Culturally discussion p	•	e services and models of care – refer to page 94 of the
	your retireme ease tell us ho	nt village provide a culturally responsive environment and/or ow.
□Yes	□No	□Not sure
	•	ges you would like to see in how retirement villages provide a onment and/or services? If yes, please tell us how.
□Yes	□No	□Not sure
	•	we should be aware of in the review that may impact Māori or other If yes, please tell us about them.
•	overnment	agencies in the retirement villages system – refer to page
•		rnment agencies have sufficient powers to carry out their functions es system? Why/why not?
□Yes	□No	□Not sure
•	•	ernment agency should be tasked with monitoring and auditing ance with the legislative framework? Why/why not?
□Yes	□No	□Not sure
Q. 71: System roles are currently spread across a range of government agencies, and stakeholders have observed that there is no clear system leader. Do you think one agency should have an overall leadership role? Why/why not?		

□Yes	□No	□Not sure				
The operation particles		Retirement Villages Register – refer to page 98 of the				
<b>Q. 72:</b> What additional information and documents should be required under the Act to be available to the Registrar? (See paragraphs 324-327 of the discussion paper)						
•	•	ne Registrar should have the power to correct minor or technical errors not? (See paragraphs 328-329 of the discussion paper)				
□Yes	□No	□Not sure				
specify the m	nanner in whic	he Act should be amended to provide the Registrar with a power to ch documents are to be filed or lodged? Why/why not? (See e discussion paper)				
□Yes	□No	□Not sure				
<b>Q. 75:</b> Do you agree that the Act should be amended to provide the power to regulate the purposes for which the Register can be searched and the manner in which it can be searched? Why/why not? (See paragraphs 333-336 of the discussion paper)						
□Yes	□No	□Not sure				
<b>Q. 76:</b> If ther	e are other im	provements that could be made to the Register, please tell us them.				
Code of Pi	<b>ractice</b> – ref	er to page 101 of the discussion paper				
-	_	the any or all of the following improvements to address the issues Practice? Please give us your reasons. (You can tick more than one				
<ul> <li>□ Introducing a regular review of the Code of Practice (for example every five or ten years).</li> <li>□ Introducing a plain language Code of Practice.</li> <li>□ Providing the Code of Practice (and other registered documents) in alternate formats such as New Zealand Sign Language and Braille.</li> <li>□ None of these.</li> </ul>						

		ny, should be made to: of Practice is currently varied?
	-	or annual and special general meetings in the Code of Practice?
Q.79: Are them.	nere any other	issues with the current Code of Practice? If yes, please tell us about
•	•	have increased during occupancy, please tell us about the experience, ts were consulted.
	ıld consultatio d? Why/why r	n requirements for weekly fees in the Code of Practice be changed or not?
□Yes	□No	□Not sure
Code of R	Residents' F	Rights – refer to page 103 of the discussion paper
	_	ed to the Code of Residents' Rights, such as clarifying and ghts and obligations to one another? If yes, please tell us how.
□Yes	□No	□Not sure
Offences	and Penalt	ies – refer to page 105 of the discussion paper
	t tools under t	es with the current provisions for offences, penalties, and he Act? If yes, please give us your reasons, including any changes
□Yes	□No	□Not sure
		eal Estate Agents Act 2008 to sale of a retirement age 106 of the discussion paper
	ıld all sales an Why/why not	d transfers of retirement village units have the same consumer ??
□Yes	□No	□Not sure

(whether th	nat is the reti	third party facilitating the sale or transfer of a retirement village unit rement village operator or an independent third party) should have a pact in the best interests of the outgoing resident? Why/why not?	
□Yes	□No	□Not sure	
Final con	nments		
•	ou have anyt ease let us k	ning else on the review of the Retirement Villages Act you want to sha low.	ıre