

Future directions for supported residential services (SRS)

## Discussion sheet 2: Scope of legislation

The current SRS regulatory scheme is being updated. Changes are proposed to the existing scheme to enhance protection for people living in SRS and to ensure the scheme is contemporary and provides flexibility to meet the needs of the industry into the future.

**The current definition of an SRS is very broad and includes facilities not intended to be covered. There have also been new types of facilities and arrangements emerging in the marketplace that need to be addressed in the legislation to provide clarity about the types of facilities that are covered in the legislation and those that are excluded or exempt.**

### What we know

- The current definition of SRS captures all services that provide accommodation and special or personal care to a non-family member 'for fee or reward' unless they are Commonwealth-funded residential aged care services or are otherwise exempt. This means that a wide range of facilities may potentially be defined as an SRS under the Act.
- In addition, there have been some recent developments in the marketplace such as the establishment of small domestic-style facilities where three to four people may share a house, and personal care services are provided by a live-in or co-located proprietor. These are unable to be registered as an SRS under the current legislative requirements as the premises do not meet building code requirements for an SRS. If these services were to be registered as an SRS they would have to meet all of the requirements under the legislation such as they relate to fire sprinklers and width of corridors and doorways, which may be excessive for a domestic-style operation. There is a lack of clarity about how the rights of these residents are protected and what service standards should apply to these residences.
- Other trends in the marketplace that need to be taken into account in the legislation include increasing numbers of SRS proprietors offering property rights through the sale or long-term lease of rooms and retirement villages offering personal care to existing ageing residents. It is important to ensure protections are in place for both of these arrangements.

### New directions – proposed legislative reforms

The government does not intend the SRS legislation to apply to like services that are regulated elsewhere. It is proposed therefore to identify and specifically exclude these services in the new legislation.

It is also proposed to introduce a new definition to cover those services providing accommodation and personal care for fee or reward in a domestic residential setting. Some of the provisions that apply to SRS will also apply to these smaller services to ensure residents in these facilities are

provided with similar protection and standards of service. This will increase the accommodation options for residents who require personal care and support.

It is also proposed to clarify that SRS that offer property rights should also be registered as a retirement village.

**Proposal: Exempt facilities from registering as an SRS if they provide accommodation and personal care that is covered under other legislation.**

In addition to the exclusion of Commonwealth aged care facilities, it is proposed to exclude services that are already regulated under other legislation, such as the *Mental Health Act 1997* or the *Disability Act 2006*, and services that are regulated by a funded agreement with a government department or other authority, such as the Transport Accident Commission.

Services that are defined under these Acts carry their own protections for people who access these services.

**Proposal: Introduce a new definition for supported domestic services to enable the registration of domestic-style facilities offering accommodation and personal care to four or fewer residents.**

A new definition to cover domestic-style facilities offering accommodation and personal care to four or fewer residents will be introduced. These facilities will be called supported domestic services (SDS) or something similar.

The definition of an SDS will be:

- **Any premises offering accommodation and personal care to non-family members for fee or reward and where the number of recipients is four or fewer people.**

The same objectives, principles, standards of accommodation and personal care, as well as resident protections such as security of tenure, money handling and residential statements that apply to SRS will also apply to SDS. The requirement to employ a personal care coordinator with minimum certificate III qualifications will also apply to SDS. However, the registration process will be significantly reduced.

The registration process for an SDS will require prospective proprietors to submit documentation that shows the premises meets all building requirements for a domestic dwelling and attests that they are a 'fit and proper' person. The required documentation will include:

- a current certificate of occupancy that is appropriate for the type of building
- a criminal history check issued within six months preceding the application
- contact details for two people who are able to make a referee statement
- a summary of relevant experience and evidence of qualifications to operate the service.

SDS will be monitored by: authorised officers who may make random unannounced inspections to investigate a complaint; community visitors who may visit once annually; and, at any time, by invitation of a resident and by submission of a self-assessment compliance test every two years. They will be required to comply with the relevant Act and Regulations and will be subject to the same enforcement processes as SRS proprietors. Should it be necessary the department will also have the power to relocate residents with their consent.

**Proposal: Require facilities that act as both an SRS and retirement village to also register under the Retirement Villages Act 1986.**

Some SRS proprietors want to offer property rights to potential residents. As well, some retirement villages want to offer their residents personal care and support. This arrangement appeals to many people who want the security of property rights while at the same time having personal care/support

services in place to meet their needs. Such services will be required to register as both an SRS and a retirement village.

Joint registration gives residents protection for both their property rights through registration as a retirement village, and for personal care/support through the SRS registration. Both registrations work in a complementary manner to ensure appropriate protection for the resident.

A proprietor will be required to document whether the SRS offers property rights (and is therefore also a retirement village) in its 'residential statement'.

**Proposal: Modify the definition of special and personal care.**

The current definition of special and personal care/support is:

- (a) assistance with one or more of the following –
  - i. bathing, showering or personal hygiene;
  - ii. toileting;
  - iii. dressing or undressing;
  - iv. eating meals; or
- (b) physical assistance for persons with mobility problems; or
- (c) assistance for persons who are mobile but require some form of supervision or assistance;
- (d) assistance or supervision in administering medicine; or
- (e) the provision of substantial emotional support.

This definition will be replaced with a new definition for personal care in which the language will be updated.

**Personal care services** will be defined as providing one or more of the following elements of care in accordance with the needs of each resident:

- assistance with personal hygiene, toileting, dressing and/or eating
- assistance to achieve and maintain mobility
- provision of support that may involve assisting and encouraging the resident to seek out and maintain contact with:
  - health professionals
  - social networks
  - family and community
- provision of support to help the resident maintain his/her emotional wellbeing
- assistance or supervision in taking medication and provision of adequate nutrition.

**What's new?**

The table below summarises the requirements that will be retained from the current regulatory scheme and the new requirements being introduced.

Status	Requirements
Amended	Definition of an SRS will be amended to be 'premises offering accommodation and personal care to non-family resident members for fee or reward and where the number of recipients is four or more people'.  <i>Anticipated date of effect: immediately after the legislation is passed.</i>
New	Facilities covered under a funding or service agreement or other legislation will be exempt.

	<i>Anticipated date of effect: immediately after the legislation is passed.</i>
New	<p>Introduce a new definition for supported domestic services:</p> <p><i>'Any premises offering accommodation and personal care to non-family members for fee or reward and where the number of recipients is four or fewer people'.</i></p> <p><i>Anticipated date of effect: immediately after the legislation is passed.</i></p>
New	<p>All supported domestic services that meet the definition must register.</p> <p><i>Anticipated date of effect: six months after the legislation is passed.</i></p>
New	<p>SRS offering property rights must also register as a retirement village.</p> <p><i>Anticipated date of effect: six months after the legislation is passed.</i></p>

## How will it work?

### Exemptions from registration

#### Case study 1

The Department receives a call from Mrs Kelly, a community visitor, who makes regular calls to SRS facilities in her neighborhood. Mrs Kelly wants to query whether a facility she has recently noticed in her area is a new SRS. Mrs Kelly has noticed a mix of people with disabilities and elderly residents in and around the facility. Mrs Kelly thinks the facility is an SRS and wants the department to investigate. She asks whether she can visit the facility. The SRS authorised officers undertake to examine the matter. On investigation it is established that this is a new rehabilitative facility that looks after people involved in transport accidents and is funded under a service agreement with the Transport Accident Commission (TAC).

Mrs Kelly is advised that the service is exempt from SRS registration.

### Joint registration as SRS and retirement village

#### Case study 2

Mrs Brown has been operating an SRS for several years and after undertaking some refurbishments to the facility decides to offer rooms for sale to residents for between \$150,000 and \$250,000. Several residents take up the offer. During an inspection at the facility, the SRS authorised officers are made aware by a resident that he has purchased his room. On investigation, it is established that none of the requirements regarding registration as a retirement village have been met. The proprietor may be liable to be prosecuted under both the SRS legislation and the retirement village legislation. In addition, under powers in the retirement village legislation, the residents who purchased the rooms may rescind the contract.

## Implementation

Any proprietors offering property rights in relation to accommodation will be expected to ensure they are registered as a retirement village under the Retirement Village Act. Facilities providing accommodation and personal care to four or fewer residents will have time to prepare documentation for registration.

Information sheets for proprietors and residents will be developed to explain the changes.

The department will work with Consumer Affairs Victoria, which has legislative responsibility for the Retirement Villages Act, to ensure that any pamphlets regarding retirement villages also refer to the requirement for registration as an SRS if personal care services are provided.

## Frequently asked questions

### **Q.1 What are the differences between an SRS and the proposed SDS?**

**A.** Proposed SDS facilities would cater for four or fewer people in a domestic dwelling while SRS would cater for five or more.

The process of registration and monitoring would be different for an SRS and the proposed SDS. The objectives, principles, standards of accommodation and personal care, as well as resident protections and the residential statement that apply to an SRS would, however, apply for a SDS. The requirement to employ a personal care coordinator with minimum certificate III qualifications would also apply to an SDS.

### **Q.2 What are the differences between SRS and Commonwealth-funded aged care facilities?**

**A.** SRS are privately owned facilities. Unlike Commonwealth aged care facilities, SRS do not receive government funding or subsidies.

### **Q.3 What are property rights?**

**A.** Property rights refer to the right of an individual to own and use property. In this instance, we refer to the right of a resident to buy and own a property right (a bedroom) in a facility. Under the new proposals, proprietors may offer residents property rights in an SRS if the service is also registered as a retirement village. Residents are advised to have a lawyer check the paperwork before making any payments.