

Extract from the *Residential Services (Accreditation) Act 2002*

Fact Sheet for Service Providers

The *Residential Services (Accreditation) Act 2002* (the Act) regulates boarding house style accommodation where residents rent rooms and share facilities, such as the toilet, bathroom and kitchen. The Act also regulates the provision of a food service and personal care services such as assisting residents with bathing, eating and taking medication.

The Act also covers situations where residents occupy self-contained units and receive a food service and/or a personal care service.

Extract from the Act

Section 4 Meaning of residential service

(1) A service is a *residential service* if—

- (a) the main purpose of the service is to provide accommodation, in return for the payment of rent, in 1 or more rooms; and
- (b) the room or rooms are occupied, or available for occupation, in the course of the service by at least 4 residents; and
- (c) in the course of the service, each of the residents—
 - (i) has a right to occupy 1 or more rooms; and
 - (ii) does not have a right to occupy the whole of the premises in which the rooms are situated; and
 - (iii) does not occupy a self-contained unit; and
 - (iv) shares other rooms, or facilities outside of the resident's room, with 1 or more of the other residents.

Example for paragraph (c)—

a service conducted in a boarding house in which each of the residents occupies a room and shares a bathroom, kitchen, dining room and common room with the other residents.

(2) Also, a service is a *residential service*—

- (a) if—
 - (i) subsection (1)(a) and (b) apply to the service; and
 - (ii) in the course of the service, each of the residents—
 - (A) has a right to occupy 1 or more rooms; and
 - (B) does not have a right to occupy the whole of the premises in which the rooms are situated; and
 - (C) is provided with a food service or personal care service; or

Example for subparagraph (ii)—

a service, providing rental accommodation to older persons, in which each of the residents occupies a self-contained unit and is provided with a food service or personal care service.

(b) if the service is provided under an aged rental scheme.

(3) Also, a service is a *residential service* if—

(a) subsection (1)(a) and (b) apply to the service; and

(b) the service is prescribed under a regulation to be a residential service.

(4) For subsection (1)(a), it is immaterial whether or not the rooms are in the same premises.

(5) Despite subsections (1) to (3), the following services are not residential services—

(a) an aged care service conducted by an approved provider under the [Aged Care Act 1997 \(Cwlth\)](#);

(aa) the forensic disability service under the [Forensic Disability Act 2011](#);

(b) an authorised mental health service under the [Mental Health Act 2016](#);

(d) a service conducted in a private hospital under a licence in force under the [Private Health Facilities Act 1999](#);

(e) a service conducted as part of, or under an agreement with, a school or other educational institution mainly to provide accommodation to students or employees of the school or institution.

(f) a service conducted with financial assistance from the education department mainly to provide accommodation to school students.

(fa) a service conducted mainly to provide accommodation to persons who are enrolled in courses that, under the [Social Security Act 1991 \(Cwlth\)](#), section 569B, are approved courses of education or study for section 569A(b) of that Act;

(g) a service conducted mainly to provide accommodation to holiday makers, tourists or travellers.

Example—

motel, bed and breakfast facility, backpackers' hostel

(h) a service conducted in licensed premises under the [Liquor Act 1992](#);

(i) a service that—

(i) is conducted with the assistance of funding given by the State; and

(ii) uses the funding to provide supported accommodation to persons who are, or are at risk of becoming, homeless.

(j) a service conducted under funding given by, or in premises owned by, Aboriginal Hostels Limited ACN 008 504 587.

(k) a service conducted—

(i) by the disability services department; or

(ii) under funding given under the [Disability Services Act 2006](#);

(l) a service conducted by the housing department.

(m) a funded service under the [Housing Act 2003](#);

(n) another service prescribed under a regulation not to be a residential service.



Section 5 Meaning of *resident*—

(1) A *resident* in a service is a person—

(a) who, in the course of the service, occupies 1 or more rooms as the person’s residence;
and

(b) who is not—

- (i) the service provider; or
- (ii) a relative of the service provider; or
- (iii) an associate of the service provider; or
- (iv) a relevant employee.

(2) In this section—

relevant employee, in relation to a service, means a person who—

- (a) is employed in the service by the service provider; and
- (b) has a principal place of residence that is not 1 or more rooms in the service.

Section 6 Meaning of *service provider*

The *service provider* for a service is—

(a) for a residential service registered under this Act—the person registered as the service provider for the service; or

(b) for a service that is not registered under this Act—

- (i) if the service is being conducted under an aged rental scheme—the scheme operator; or
- (ii) if the service is being conducted other than under an aged rental scheme—the person conducting the service; or
- (iii) if the service is no longer being conducted—the person who was the service provider immediately before the service stopped.

Section 6A Meaning of aged rental scheme and scheme operator

(1) An *aged rental scheme* is a scheme under which—

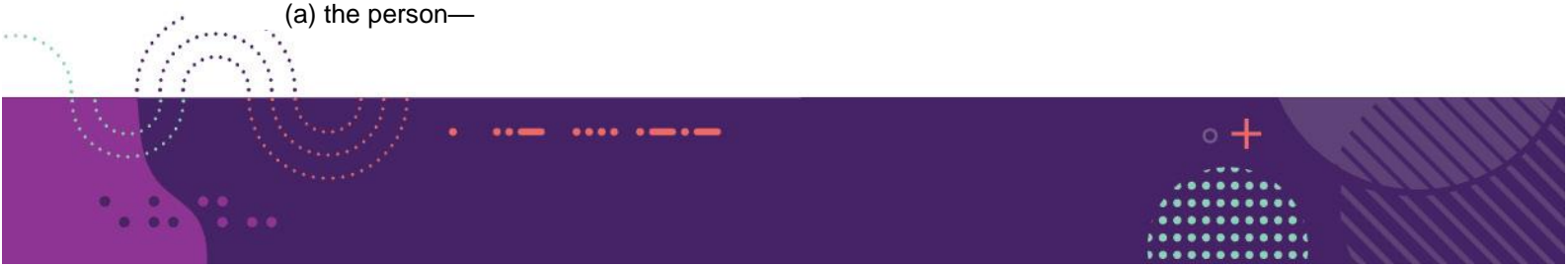
- (a) accommodation, in return for the payment of rent, is provided mainly to older members of the community or retired persons; and
- (b) the accommodation is provided to at least 4 persons who have a right to occupy 2 or more self-contained units either jointly or separately: and
- (c) a food service or personal care service is provided to the persons mentioned in paragraph (b).

(2) The person who, under the aged rental scheme, must provide both of the following is the *scheme operator* of the scheme—

- (a) the accommodation.
- (b) the food service or personal care service.

(3) For subsection (2), a person provides accommodation and a food service or a personal care service if—

- (a) the person—



- (i) owns or leases all or any of the self-contained units used in the aged rental scheme; and
- (ii) lets those units, or arranges for those units to be let, to residents in the course of the residential service; and
- (iii) provides, or arranges for the provision of, the food service or personal care service; or

Example of a scheme operator arranging for the provision of a food service or personal care service—

The scheme operator engages another person to provide a food service or personal care service to residents who pay for the service.

(b) the person (the **letting agent**), on behalf of the owners or lessees of all or any of the self-contained units used in the aged rental scheme—

- (i) lets or sublets the units to residents in the course of the residential service, regardless of whether the letting contract with the residents states the owner (or lessee) or the letting agent as a party to the letting contract; and
- (ii) provides, or arranges for the provision of, the food service or personal care service.

Extract from the *Residential Services (Accreditation) Regulation 2018*

4 Services that are not residential services—

(1) This section prescribes, for section 4 (5)(n) of the Act, services that are not residential services.

(2) A service is not a residential service if the service is conducted mainly to provide accommodation to—

- (a) employees in connection with their employment, other than employees employed in the service by the service provider; or
- (b) contractors in connection with their contracts for services.

(3) Also, a retirement village scheme is not a residential service if the scheme is accredited by a recognised accreditation body.

(4) In this section—

contractor means a person who does work under a contract for services, including, for example, a subcontractor.

employee includes a person who does unpaid work for or at the direction of an employer.

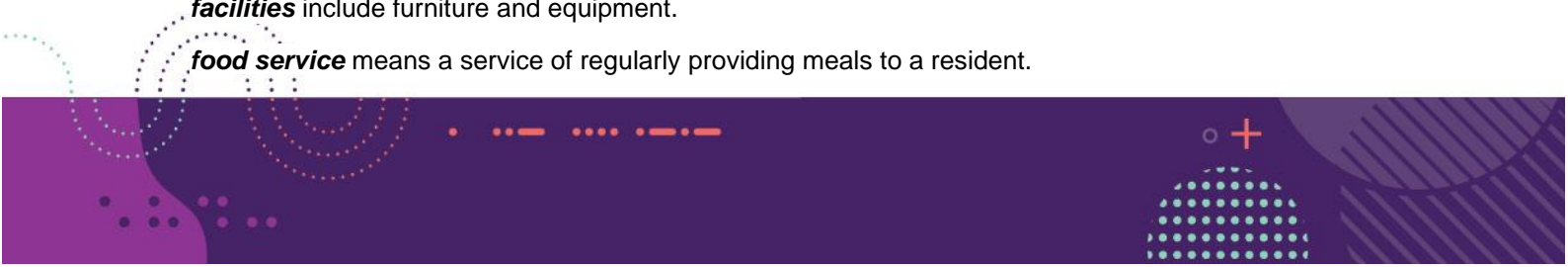
recognised accreditation body means an entity, recognised by the chief executive, who accredits retirement village schemes against standards for the health, safety and wellbeing of residents of retirement villages.

Schedule 2 – Definitions

education department means the department in which the [Education \(General Provisions\) Act 2006](#) is administered.

facilities include furniture and equipment.

food service means a service of regularly providing meals to a resident.



personal care service means a service of regularly providing a resident with—

- (a) help in—
 - (i) bathing, toileting or another activity related to personal hygiene; or
 - (ii) dressing or undressing; or
 - (iii) consuming a meal; or
 - (iv) meeting a mobility problem of the resident; or
 - (v) taking medication; or
- (b) help in managing the resident's financial affairs.

premises include a part of premises.

relative of a person—

- (a) means the person's spouse, child, grandchild, great-grandchild, parent, grandparent, great-grandparent, brother, sister, uncle, aunt, cousin, niece, nephew, parent-in-law, daughter-in-law, son-in-law, sister-in-law or brother-in-law; and
- (b) for an Aboriginal person—includes a person who, under Aboriginal tradition, is regarded as a relative of the Aboriginal person; and
- (c) for a Torres Strait Islander person—includes a person who, under Island custom, is regarded as a relative of the Torres Strait Islander person.

rent means an amount of money, or other consideration, given in return for the provision of accommodation by a person and any related services provided by the person.

school means—

- (a) a State school within the meaning of the [Education \(General Provisions\) Act 2006](#); or
- (b) an accredited school under the [Education \(Accreditation of Non-State Schools\) Act 2017](#).

self-contained unit means a part of a building, forming a self-contained residence, which is under the exclusive possession of the occupier and includes kitchen, bathroom and toilet facilities.

staff, of a residential service, includes a volunteer and a resident who participates in the conduct of the service.

For more information

You can contact Regulatory Services on (07) 3013 2666



or email RegulatoryServices@chde.qld.gov.au



The *Residential Services (Accreditation) Act 2002* and the *Residential Services (Accreditation) Regulation 2018* are available at www.legislation.qld.gov.au

