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| Fees, charges and security deposits in supported residential services |
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## About the Social Services Regulator

The [*Social Services Regulation Act 2021*](https://www.legislation.vic.gov.au/in-force/acts/social-services-regulation-act-2021/001) (the Act), the [*Social Services Regulations 2023*](https://www.legislation.vic.gov.au/in-force/statutory-rules/social-services-regulations-2023/001) (the Regulations), and the [*Social Services (Supported Residential Services) Regulations 2024*](https://www.legislation.vic.gov.au/in-force/statutory-rules/social-services-supported-residential-services-regulations-2024/001)(the SRS Regulations) create a new regulatory framework for social services in Victoria. This framework puts the protection and safety of social service users at the centre of social services delivery.

The Social Services Regulator (Regulator) aims to strengthen protections for social services users to safeguard people from harm, abuse and neglect.

Core objectives include:

* protecting the rights of service users
* supporting safe and effective social services delivery
* minimising the risk of avoidable harm in service delivery.

All service providers, including supported residential services (SRS) providers, must meet requirements in the Act and the Regulations. SRS providers must also meet specific requirements in the SRS Regulations.

## Fees, charges, and security deposits

SRS providers need to comply with the Act when asking residents to pay fees and charges, and to make sure these meet key requirements.

### Types of fees

You can only charge a resident the following fees[[1]](#footnote-2):

* a security deposit
* a fee paid in advance (in line with the Act)
* a reservation fee
* an establishment fee
* a fee for the resident’s accommodation and personal support
* an amount for an item or service purchased at the SRS.

Specific requirements to manage these types of fees are outlined in further detail below.

### Security deposits

A security deposit is the amount of money an SRS resident pays in advance to cover a provider’s potential losses due to:

* the resident (or resident’s visitor) causing damage to the SRS, or
* a failure to pay fees.

#### What am I required to do?

You must not request or accept a security deposit that exceeds one month’s fees[[2]](#footnote-3).

If a resident or a prospective resident pays a security deposit, you must give them 2 copies of a condition report. This condition report should specify the state of repair of:

* the resident’s room
* the common areas
* the furniture in the resident’s room and the common areas.

The condition report must be:

* signed by you or on your behalf
* provided to the resident before they move into the SRS
* signed and returned by the resident, endorsing their agreement with the contents of the report or notifying any issues within 3 days.

The condition report provides important evidence if a dispute arises when the resident leaves.

#### What happens to the security deposit when a resident leaves?

When a resident leaves your SRS, you must refund their security deposit within 14 days of departure, minus any part of the deposit you are entitled to keep.

SRS providers are only entitled to keep some or all of the security deposit if:

* a resident has left the SRS and owes fees
* a resident (or a resident’s visitor) has caused damage to the SRS
* a resident (or a resident’s visitor) has taken goods belonging to the SRS
* the resident consented to other deductions, and only after you have given the resident a statement setting out the detail and purpose of the deductions and the remaining balance of the security deposit.

### Requirements when charging fees

Table 1: Meeting fee requirements for reservation, establishment and advance payment

| Type | Description | Your requirements |
| --- | --- | --- |
| **Reservation fee** | A fee to reserve a place at the SRS | * You must not accept or request a reservation that exceeds two weeks fees[[3]](#footnote-4). * You must provide written information to a prospective resident or a person acting on their behalf, stating how you will use the reservation fee and the circumstances in which the fee, or part of the fee, may be forfeited. * When a resident who has paid a reservation fee first moves into your SRS, you must deduct that reservation fee from the fees under the residential and services agreement. * If a prospective resident does not move into your SRS, you must refund the reservation fee in accordance with the terms and conditions you specified in the information for prospective residents. |
| **Establishment fee** | A fee to cover the costs of:   * assessing a resident’s needs and * preparing a support plan when they first move into the SRS | * You must not request or accept an establishment fee that exceeds two weeks fees[[4]](#footnote-5). * Where a prospective resident pays an establishment fee but does not move in, you must refund the fee in accordance with the terms and conditions you specified in the information for prospective residents. |
| **Fees paid in advance** | The Regulator interprets this to mean fees paid or requested for a period beyond the current billing period | * You cannot request more than one month’s fees paid in advance[[5]](#footnote-6). * You do not need to place fees paid for the current billing period (which may be up to one month) in a trust account. * You must place fees paid for a period beyond the current billing period in a trust account and give a receipt containing the prescribed information to the resident (and their financial administrator). |

### Requirements when refunding fees

You must return to a resident any part of a security deposit, fees in advance, or other fee that you are not entitled to retain, within 14 days of the resident leaving the SRS.

### When can a resident apply to VCAT for a refund of fees?

If a security deposit, fees in advance, establishment fee or reservation fee is not refunded to the resident, the resident (or their representative) may apply to VCAT for an order directing those fees to be refunded.

VCAT will assess the application and take one of the following actions:

* make an order allowing you to keep all the money, an amount specified, or an amount to which you are entitled
* make an order that you must refund the money
* dismiss the application.

### Other charges

Charges for items or services purchased at the SRS are known as day-to-day expenses.

These are not included in accommodation and personal support fees and might include:

* services that come to the SRS,
* excursions outside the SRS, or
* incidental items such as non-essential toiletries (such as perfume or aftershave).

You must individually itemise and explain these charges to the resident.

## Trust accounts

You must establish a trust account for your SRS to deposit certain fees charged to residents.

SRS providers must:

* deposit all security deposits, establishment fees and reservation fees into your trust account
* record transactions relating to each resident individually
* maintain separate records for each resident
* place fees in a trust account where a resident has requested, in writing, to pay fees in advance for a period beyond the current billing period.

SRS providers must not withdraw any amount from the trust account, unless it is to return it to the resident (or the person who made the payment on behalf of the resident), or if you are entitled to retain it.

When establishing a trust fund to hold security deposits, establishment fees and reservation fees, the account should be in your name as ‘trustee for the residents of (insert name of your SRS)’.

### Keeping records of trust deposits

You must maintain a separate record of money held in a trust account for each resident.

**The record must contain:**

* the name of the resident and the name of the person from whom the money is received
* the name of the SRS
* the date of payment
* the amount paid
* the purpose of the payment
* any terms and conditions for refunding the money
* the name, account number, branch and financial institution[[6]](#footnote-7) where the money has or will be deposited.

## What written information is necessary?

You must provide prospective residents and each resident with written information on **all fees, charges, and security deposits** in their residential and services agreement.

The written information must include:

* how often fees, charges or other amounts are payable
* how to pay the fees
* how you will inform residents of any changes to items or services, and any changes to fees
* terms and conditions for refunding security deposits, establishment fees and reservation fees
* a statement that a resident can apply to VCAT if the proprietor does not refund a security deposit, establishment fee or a reservation fee
* the services and items that will be provided to the resident for those fees.

### Written receipts for fees

SRS providers must provide a written receipt to the resident (and if there is a person nominated or financial administrator) within 7 days of receiving payment of a security deposit, a fee paid in advance, an establishment fee, or a reservation fee held in trust.

#### The written receipt must include:

* the name of the resident and the name of the person from whom the money is received
* the name of the SRS
* the date of payment
* the amount paid
* the purpose of the payment
* any terms and conditions for refunding the money
* the name, account number, and financial institution[[7]](#footnote-8), and branch at which the money is deposited the printed name and signature of the proprietor.

## What is the role of the Regulator?

We are committed to our duty to protect service users and will not hesitate to act to protect service users from harm, abuse, and neglect. This includes taking enforcement action.

You can be penalised if you don’t meet your obligations in the Act and regulations. This includes if you don’t adequately manage fees and charges. Penalties can include fines and prosecution.

## Useful resources and contacts

### Resources

You can find further information on the Regulator’s website about:

* Meeting the [Social Services Standards](https://dhhsvicgovau.sharepoint.com/sites/HumanServicesRegulator-DHHS-GRP/Shared%20Documents/Guidance%20and%20engagement/Supported%20Residential%20Services/202410%20Oct%20tranche/Social%20Services%20Standards), including [Standard 6](https://www.vic.gov.au/social-services-regulator-social-services-standards):
* Information on [notification requirements when you change some key personnel](https://www.vic.gov.au/reporting-changes-your-organisation):
* [Fact sheets on requirements for Supported Residential Services](https://www.vic.gov.au/supported-residential-services) (SRS) providers are at:

The suite of fact sheets on requirements for SRS providers under the Regulations includes:

* Managing residents’ medication
* Managing residents’ money
* Managing support plans
* Staffing requirements
* Using a residential service agreement (RSA)
* Notices to vacate
* Fees, charges and security deposits in supported residential services.

### Contact us

For further information about fees and security deposits not covered by this fact sheet, you can contact the Social Services Regulator: [email the Social Services Regulator](mailto:email%20the%20Social%20Services%20Regulator) <enquiries@ssr.vic.gov.au>.

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1. Section 240 of the Act. [↑](#footnote-ref-2)
2. Section 241 of the Act. [↑](#footnote-ref-3)
3. Section 243 of the Act. [↑](#footnote-ref-4)
4. Section 244 of the Act. [↑](#footnote-ref-5)
5. Section 242 of the Act. [↑](#footnote-ref-6)
6. Also known as an authorised deposit-taking institution (ADI). [↑](#footnote-ref-7)
7. Also known as an ADI. [↑](#footnote-ref-8)