



Western Australia

Short-Term Rental Accommodation Act 2024

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Short-Term Rental Accommodation Act 2024

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Western Australia

Short-Term Rental Accommodation Act 2024

No. 12 of 2024

An Act —

- **to establish a scheme for the registration of short-term rental accommodation; and**
- **to provide for matters relating to information about short-term rental accommodation; and**
- **to make consequential amendments to the *Fair Trading Act 2010*; and**
- **to affect the operation of certain local laws; and**
- **for related purposes.**

[Assented to 22 April 2024]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Short-Term Rental Accommodation Act 2024*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Terms used

In this Act —

accommodation provider means —

- (a) an owner or tenant of residential premises who enters, or seeks to enter, into a short-term rental arrangement in relation to the premises; or
- (b) an agent of an owner or tenant of residential premises who acts on behalf of the owner or tenant in relation to the use, or proposed use, of the premises for short-term rental arrangements;

advertisement means any advertisement, whether paid or not;

advertising publication means a website, online platform or other online facility, newspaper, magazine or other publication, notice or service containing advertisements to which members of the public have access (whether or not the member of the public is first required to pay a fee or subscription, register or become a member);

arrangement includes a lease, licence or other contract or arrangement;

booking platform means an online platform, website or other online facility that enables —

- (a) the display to the public of multiple residential premises as being available for short-term rental accommodation; and
- (b) the making of short-term rental arrangements by use of a website or electronic address operated or maintained by the booking platform provider;

booking platform provider means a person who, on payment of a fee or other consideration by or on behalf of an owner or tenant of residential premises, or an agent of an owner or tenant of residential premises, enables short-term rental arrangements to be made in relation to the premises by means of a booking platform that is operated or maintained by the person;

building standard has the meaning given in the *Building Act 2011* section 3;

Commissioner has the meaning given in the *Fair Trading Act 2010* section 6;

Department means the department of the Public Service principally assisting the Minister in the administration of this Act;

development —

- (a) in relation to premises on land to which a planning scheme or the *Planning and Development Act 2005*, the *Swan Valley Planning Act 2020* or an Act prescribed for the purposes of paragraph (d) of the definition of **planning Act** applies, has the meaning given in the *Planning and Development Act 2005* section 4(1); and
- (b) in relation to premises on land to which a redevelopment scheme under the *Metropolitan Redevelopment Authority Act 2011* applies, has the meaning given in section 3 of that Act;

development approval means an approval under a planning Act, or an instrument under a planning Act, for development on land to which the Act or instrument applies.

hosted accommodation has the meaning given in section 5;

online platform means an online system consisting of a software application and 1 or more websites;

owner, of an advertising publication, includes a person who carries on the business or undertaking of the advertising publication;

owner, of residential premises —

- (a) means a person who has an estate of freehold in possession in the land on which the premises are situated; or
- (b) if the premises consist of the whole or part of a lot as defined in the *Community Titles Act 2018* section 3(1) — means the owner of the lot as defined in section 3(1) of that Act; or
- (c) if the premises consist of the whole or part of a lot in a strata scheme as defined in the *Strata Titles Act 1985* section 3(1) — means the owner of the lot as defined in section 3(1) of that Act; or
- (d) if the premises consist of the whole or part of a non-strata home unit as defined in the *Land Tax Assessment Act 2002* Glossary clause 1 — means the owner of a non-strata home unit as defined in that clause;

planning Act means —

- (a) the *Planning and Development Act 2005*; or
- (b) the *Swan Valley Planning Act 2020*; or
- (c) the *Metropolitan Redevelopment Authority Act 2011*; or
- (d) a prescribed Act;

planning authority, in relation to land, means a Minister, local government, public sector body or person who has power under

a planning Act, or an instrument under a planning Act, to grant or refuse a development approval for development on the land;

planning scheme means a planning scheme as defined in the *Planning and Development Act 2005* section 4(1);

premises includes part of premises;

prescribed means prescribed by the regulations;

prohibited advertisement means an advertisement for short-term rental accommodation that —

- (a) relates to residential premises that are not registered premises; or
- (b) does not contain the registration number for the residential premises displayed in a conspicuous manner; or
- (c) contains a false registration number for the residential premises;

public sector body has the meaning given in the *Public Sector Management Act 1994* section 3(1);

Register means the register kept under section 31;

registered premises means residential premises registered as short-term rental accommodation under this Act;

registration number, of residential premises, means the registration number assigned to the premises under section 21;

relevant agency has the meaning given in section 34(1);

residential premises means premises used, or designed or adapted for use, as a place of residence;

self-contained accommodation —

- (a) means residential premises consisting of a self-contained unit that includes kitchen facilities, bathroom facilities and sleeping facilities; but
- (b) does not include —
 - (i) hosted accommodation where kitchen facilities or bathroom facilities, or both, are shared with

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the accommodation provider or an agent of the accommodation provider; or

- (ii) residential premises where kitchen facilities or bathroom facilities, or both, are shared with persons who occupy the premises under separate arrangements with the person providing the premises for occupation;

short-term rental accommodation means residential premises provided, on a commercial basis, for occupation under a short-term rental arrangement;

short-term rental arrangement has the meaning given in section 4;

tenant has the meaning given in the *Residential Tenancies Act 1987* section 3;

Tribunal means the State Administrative Tribunal.

4. Short-term rental arrangements

- (1) In this Act, a ***short-term rental arrangement*** is an arrangement under which residential premises are provided for occupation to the same person or persons for a period or periods not exceeding a total of 3 months in a 12 month period, and includes an arrangement under which the accommodation provider or an agent of the provider also resides on the premises.
- (2) This Act does not apply to prescribed arrangements or arrangements of a prescribed class.

5. Hosted accommodation

- (1) In this Act, ***hosted accommodation*** is short-term rental accommodation where the accommodation provider, or an agent of the accommodation provider who ordinarily resides on the residential premises, resides on the same residential premises during the short-term rental arrangement.

- (2) The regulations may —
- (a) prescribe additional short-term rental accommodation as hosted accommodation for the purposes of this Act; and
 - (b) declare that specified short-term rental accommodation is not hosted accommodation for the purposes of this Act.

6. Premises to which Act does not apply

This Act does not apply to the following premises —

- (a) a hotel or motel;
- (b) a hospital;
- (c) a lodging-house as defined in the *Health (Miscellaneous Provisions) Act 1911* section 3(1);
- (d) a dwelling park, as defined in the *Land Tax Assessment Act 2002* section 39A or a residential park as defined in the *Residential Parks (Long-stay Tenants) Act 2006* section 5B;
- (e) an aged care facility as defined in the *Land Tax Assessment Act 2002* section 38A(1);
- (f) a refuge or other emergency or respite accommodation;
- (g) a retirement village as defined in the *Retirement Villages Act 1992* section 3(1);
- (h) accommodation provided specifically for persons with a disability as defined in the *Disability Services Act 1993* section 3;
- (i) accommodation provided for employees by an employer;
- (j) accommodation provided for students by an educational institution;
- (k) prescribed premises or premises of a prescribed class.

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7. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

8. Application of Act outside Western Australia

This Act extends to conduct, and other acts, matters and things, occurring or existing outside or partly outside Western Australia (whether within or outside Australia).

Part 2 — Requirements for short-term rental industry participants

9. Short-term rental accommodation must be registered

An accommodation provider commits an offence if the accommodation provider enters into, or seeks to enter into, an arrangement to provide residential premises as short-term rental accommodation and the premises are not registered in accordance with this Act.

Penalty: a fine of \$20 000.

10. Prohibited advertisements by accommodation providers and agents

- (1) An accommodation provider commits an offence if the provider, or an agent of the provider, causes a prohibited advertisement to be published in or on an advertising publication or booking platform.

Penalty for this subsection: a fine of \$20 000.

- (2) An agent of an accommodation provider commits an offence if the agent causes a prohibited advertisement to be published in or on an advertising publication or booking platform.

Penalty for this subsection: a fine of \$20 000.

11. Prohibited advertisements in advertising publications

- (1) An owner of an advertising publication commits an offence if a prohibited advertisement is published in or on the advertising publication.

Penalty for this subsection: a fine of \$20 000.

- (2) An agent of an owner of an advertising publication commits an offence if the agent causes a prohibited advertisement to be published in or on the advertising publication.

Penalty for this subsection: a fine of \$20 000.

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- (3) It is a defence to an offence under subsection (1) or (2) if the accused person proves that the person caused the publication of the prohibited advertisement in or on the advertising publication to cease, or to cease to be available for display to the public on the advertising publication, as soon as practicable after becoming aware that the advertisement was a prohibited advertisement.

12. Prohibited advertisements on booking platforms

- (1) A booking platform provider commits an offence if a prohibited advertisement is published on the booking platform operated or maintained by the provider.

Penalty for this subsection: a fine of \$20 000.

- (2) An agent of a booking platform provider commits an offence if the agent causes a prohibited advertisement to be published on the booking platform operated or maintained by the provider.

Penalty for this subsection: a fine of \$20 000.

- (3) It is a defence to an offence under subsection (1) or (2) if the accused person proves that the person caused the prohibited advertisement to cease to be available for display to the public on the booking platform as soon as practicable after becoming aware that the advertisement was a prohibited advertisement.

13. Removal of prohibited advertisements from advertising publications

- (1) The Commissioner may, by written notice given to the owner of an advertising publication, or an agent of an owner of an advertising publication, require the owner, within the period specified in the notice, to ensure that —

- (a) publication of the prohibited advertisement in or on the advertising publication ceases; or

(b) in the case of an advertising publication consisting of a website, online platform or other online facility, the advertisement ceases to be available for display to the public on the advertising publication.

- (2) The owner of an advertising publication commits an offence if the owner or an agent of the owner fails to comply with a notice given to the owner or agent under subsection (1).

Penalty for this subsection: a fine of \$20 000.

14. Removal of prohibited advertisements from booking platforms

- (1) The Commissioner may, by written notice given to a booking platform provider, or an agent of the provider, require the provider, within the period specified in the notice, to ensure that a prohibited advertisement ceases to be available for display to the public on the provider's booking platform.

- (2) A booking platform provider commits an offence if the provider or an agent of the provider fails to comply with a notice given to the provider or agent under subsection (1).

Penalty for this subsection: a fine of \$20 000.

15. Nomination of agents for purposes of take-down notices

- (1) The Commissioner may, by written notice given to a booking platform provider or an owner of an advertising publication, require the provider or owner to nominate an agent located in Australia for the purposes of receiving notices on behalf of the provider or owner under section 13 or 14.

- (2) A booking platform provider or an owner of an advertising publication commits an offence if the provider or owner fails to comply with a notice given under subsection (1).

Penalty for this subsection: a fine of \$20 000.

16. False representations relating to registration

- (1) A person commits an offence if the person falsely represents —
- (a) that premises are registered premises; or
 - (b) that a number is the registration number of the premises.

Penalty for this subsection: a fine of \$20 000.

- (2) A person commits an offence if the person displays or causes to be displayed, on or in the vicinity of premises, a registration number for the premises that the person knows to be false.

Penalty for this subsection: a fine of \$20 000.

Part 3 — Registration of short-term rental accommodation

Division 1 — Applications for registration

17. Persons who may apply for registration of residential premises

- (1) An owner or tenant of residential premises may apply to the Commissioner to register the premises as short-term rental accommodation.
- (2) An owner or tenant of residential premises must make a separate application for registration for each part of proposed short-term rental accommodation that is self-contained accommodation.

18. Applications

- (1) An application for registration of residential premises must —
 - (a) be in a form approved by the Commissioner; and
 - (b) include the information set out in subsection (2) and any other information specified by the form; and
 - (c) be accompanied by the prescribed fee.
- (2) The information that must be included in the application is —
 - (a) the address and a description of the residential premises; and
 - (b) whether or not the short-term rental accommodation is to be provided as hosted accommodation; and
 - (c) whether or not the short-term rental accommodation is self-contained accommodation; and
 - (d) the number of bedrooms in the residential premises to be provided as short-term rental accommodation; and
 - (e) the maximum number of persons to be accommodated in the residential premises; and

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Division 1 Applications for registration

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- (f) if approval is required for the use of the residential premises as short-term rental accommodation under a planning Act relating to the use of land on which the premises are situated, or an instrument under a planning Act, whether or not the use of the residential premises for the purpose of short-term rental accommodation has been approved under the Act or instrument and any relevant approval number; and
 - (g) if the residential premises are to be managed by an agent for the purposes of short-term rental accommodation, the name and contact details of the agent; and
 - (h) any other prescribed information.
- (3) The Commissioner may require the applicant to provide additional documents or information if the Commissioner considers it necessary to do so.
- (4) An application for registration of residential premises cannot be made within 3 years after registration of the premises is cancelled under this Act.
- (5) The fee referred to in subsection (1)(c) is not refundable except in the prescribed circumstances, if any.

19. Granting of registration applications

The Commissioner must register residential premises if an application to register the premises is made in accordance with section 18.

20. Commissioner may accept certain applications for registration

- (1) The following persons may apply to the Commissioner to have an application for registration of residential premises accepted under this Act —

- (a) a person whose application for registration of the premises is not accepted on the ground that it does not comply with section 18;
 - (b) a person whose application for registration is made within 3 years after the cancellation of a previous registration of the premises.
- (2) An application made under subsection (1) must —
 - (a) be in a form approved by the Commissioner; and
 - (b) be accompanied by the prescribed fee.
- (3) The Commissioner may require the applicant to provide additional documents or information if the Commissioner considers it necessary to do so.
- (4) The Commissioner may grant an application made under subsection (1)(a) if the Commissioner is satisfied that the application complies with section 18.
- (5) Despite section 18(4), the Commissioner may grant an application made under subsection (1)(b) if the Commissioner is satisfied that the application complies with section 18 and —
 - (a) there has been a change in ownership, tenancy or management of the premises; or
 - (b) the previous registration was cancelled after an application for cancellation by the accommodation provider for the premises; or
 - (c) the registration was cancelled on the ground that the premises were no longer used as short-term rental accommodation; or
 - (d) the Commissioner considers it appropriate in the circumstances.
- (6) The Commissioner must give the applicant written notice of a decision to grant or refuse the application.

- (7) If the Commissioner refuses an application made under subsection (1), the written notice must —
- (a) specify the grounds for the refusal; and
 - (b) if the Commissioner is relying on a certificate under section 29, include particulars of the certificate; and
 - (c) set out the right to apply to the Tribunal for a review under section 30.

21. Registration numbers

- (1) The Commissioner must allocate a registration number to residential premises when the premises are registered under this Act.
- (2) The Commissioner must allocate a different number for each part of residential premises that is self-contained accommodation or is otherwise separately registered under this Act.
- (3) The Commissioner must ensure that the registration number for residential premises is made available to the applicant for registration of the premises in a manner approved by the Commissioner.

22. Duration of registration

- (1) The registration of registered premises remains in force for a period of 1 year, unless sooner cancelled under Division 2 or extended under subsection (2).
- (2) If an application for the grant of renewal of registration of residential premises is duly made to the Commissioner under section 23, the registration is taken to have been in force during the period commencing at the end of the registration period and ending when the premises are registered or the application for registration is not accepted.

23. Renewal of registration

- (1) A person may apply to the Commissioner for renewal of the registration of residential premises under this Act not earlier than 2 months before the end of the registration period and not later than 28 days after the end of the period.
- (2) This Act applies to an application for the renewal of the registration of residential premises in the same way that it applies to an application for registration of residential premises.

Division 2 — Suspension or cancellation of registration

24. Suspension or cancellation generally

The Commissioner may, by written notice given to the accommodation provider of registered premises, cancel or suspend the registration of the premises on the following grounds —

- (a) the premises cannot lawfully be used for short-term rental accommodation of the kind provided;
- (b) the accommodation provider (including, if the accommodation provider is a body corporate, a director of the body corporate) has contravened this Act or a prescribed Act or prescribed local law, or a regulation made under this Act or another prescribed Act, whether or not the accommodation provider or director is prosecuted or convicted for the contravention;
- (c) the registration was granted in error;
- (d) an owner who made the application for registration is no longer the owner of the premises;
- (e) a tenant who made the application for registration is not entitled to use the premises for short-term rental accommodation;
- (f) a tenant who made the application for registration is no longer a tenant of the premises;

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Division 2 Suspension or cancellation of registration

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- (g) the premises or the use of the premises does not comply with a development approval relating to the land on which the premises are situated, the premises or the use of the premises;
- (h) the premises do not comply with a building standard that is applicable to the premises under the *Building Act 2011*;
- (i) the premises consist of the whole or part of a lot within a strata scheme as defined in the *Strata Titles Act 1985* section 3(1), or a lot as defined in the *Community Titles Act 2018* section 3(1), and the use of the premises for short-term rental accommodation is prohibited under scheme by-laws made under the *Strata Titles Act 1985* or the *Community Titles Act 2018* that are applicable to the premises;
- (j) the accommodation provider of the premises has applied for the registration to be cancelled;
- (k) a prescribed ground.

25. Notice to show cause

- (1) The Commissioner must, before cancelling or suspending the registration of registered premises under this Act, give a written notice to the accommodation provider for the premises.
- (2) The notice must —
 - (a) specify the proposed decision to cancel or suspend the registration; and
 - (b) specify the grounds for the proposed decision; and
 - (c) in the case of a suspension, specify the proposed period of suspension and any proposed conditions for lifting the suspension; and
 - (d) if the Commissioner is proposing to rely on a certificate under section 29, include particulars of the certificate; and

- (e) invite the accommodation provider to make a submission as to why the registration should not be cancelled or suspended; and
 - (f) specify a reasonable time within which the accommodation provider may respond to the notice.
- (3) The Commissioner is not required to consider a submission made after the time specified in the notice for making a submission.
- (4) If an accommodation provider makes a submission in accordance with this section, the Commissioner must consider the submission before determining whether to suspend or cancel the registration of the premises.
- (5) This section does not apply if the accommodation provider for the premises has applied for the registration to be cancelled.

26. Notice of cancellation or suspension of registration

- (1) If the Commissioner decides to cancel or suspend the registration of registered premises, the Commissioner must give a written notice to the accommodation provider for the premises.
- (2) The notice must —
- (a) specify the decision to cancel or suspend the registration, and
 - (b) specify the grounds for the decision; and
 - (c) in the case of a suspension, specify the period of the suspension and when the suspension takes effect; and
 - (d) in the case of a suspension, specify the conditions, if any, under which the suspension may be lifted; and
 - (e) in the case of a cancellation, specify when the cancellation takes effect; and
 - (f) if the Commissioner is relying on a certificate under section 29, include particulars of the certificate; and

- (g) notify the accommodation provider of the right to apply to the Tribunal for a review under section 30.

27. Effect of suspension or cancellation

- (1) The registration of residential premises is taken not to be in force during any period for which the registration is suspended.
- (2) A period of suspension of registration of residential premises does not affect the date on which the registration period would otherwise end.
- (3) Despite subsection (1), a person is not guilty of an offence under section 9 in relation to an arrangement for premises that takes effect on or after the cancellation or suspension of registration of premises if the arrangement is entered into before the cancellation or suspension.

28. Accommodation provider to notify Commissioner of certain events

An accommodation provider for registered premises must notify the Commissioner in writing of the following events within 30 days after the events occur —

- (a) the provider is notified by a planning authority for the land on which the premises are situated that development for the purposes of short-term rental accommodation cannot lawfully be carried out on the premises;
- (b) the provider is notified by a planning authority for the land on which the premises are situated that the premises or the use of the premises does not comply with a development approval applicable to the premises;
- (c) proceedings are instituted against the provider (including, if the provider is a body corporate, proceedings instituted against a director of the body corporate) for a contravention referred to in section 24(b);

- (d) the provider (including, if the provider is a body corporate, a director of the body corporate) is found guilty of a contravention referred to in section 24(b);
- (e) the provider ceases to be the owner or tenant of the premises;
- (f) a change in any prescribed particulars relating to the registered premises.

Penalty: a fine of \$5 000.

Division 3 — Miscellaneous

29. Certificate evidence of certain matters may be relied on by Commissioner

- (1) A certificate by a designated officer, specifying the following matters, may be relied on by the Commissioner as conclusive evidence in determining whether or not to grant an application under section 20, or to cancel or suspend the registration of residential premises —
 - (a) that approval for the use of the premises as short-term rental accommodation is or is not required under a specified planning Act relating to the use of land on which the premises are situated, or a specified instrument under a specified planning Act;
 - (b) that the use of the premises for the purpose of short-term rental accommodation has or has not been approved under a specified planning Act, or a specified instrument under a specified planning Act, relating to the use of land on which the premises are situated;
 - (c) that the premises or use of the premises does or does not comply with a specified development approval relating to the land on which the premises are situated, the premises or the use of the premises;

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Division 3 Miscellaneous

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- (d) that the premises or use of the premises does or does not comply with a specified law prescribed for the purposes of section 24(b);
 - (e) that the specified premises do or do not comply with a specified building standard that is applicable to the premises under the *Building Act 2011*.
- (2) A designated officer must not issue a certificate under subsection (1)(c), (d) or (e) specifying that premises do not comply as referred to in those paragraphs unless the designated officer has —
 - (a) given the owner or tenant, or an agent of the owner or tenant, a written notice specifying the matters set out in subsection (3); and
 - (b) considered any submission made by the owner or tenant, or agent, within the period specified in the notice.
- (3) The notice must —
 - (a) specify the proposed decision to issue the certificate; and
 - (b) specify the matters proposed to be included in the certificate; and
 - (c) invite the owner or tenant, or agent, to make a submission as to why the certificate should not be issued; and
 - (d) specify a reasonable time within which the accommodation provider may respond to the notice.
- (4) In this section, the *designated officer* —
 - (a) for a certificate certifying a matter specified in subsection (1)(a), (b) or (c) — is an officer designated in writing for the purposes of this section by the planning authority for the land on which the premises concerned are situated; and

- (b) for a certificate certifying a matter specified in subsection (1)(d) or (e) — is an officer designated in writing for the purposes of this section by the public sector body or local government responsible for the enforcement of the law concerned.
- (5) Nothing in this section limits the matters on which the Commissioner can rely when determining whether or not to grant an application under section 20 or to cancel or suspend the registration of registered premises.

30. Review of certain decisions

- (1) A person aggrieved by a reviewable decision may apply to the Tribunal for a review of the decision.
- (2) For the purposes of subsection (1), the following decisions of the Commissioner are reviewable decisions —
 - (a) a decision to refuse an application made under section 20(1) (including an application relating to renewal of registration);
 - (b) a decision under section 24 to cancel registration;
 - (c) a decision under section 24 to suspend registration.

Part 4 — Register

31. Register of premises

- (1) The Commissioner must keep a register of premises that are registered premises.
- (2) The Register must be kept in the form and manner determined by the Commissioner.
- (3) The Commissioner must include in the Register the following information in relation to registered premises —
 - (a) the address and a description of the premises;
 - (b) whether or not the premises are to be provided as hosted accommodation;
 - (c) whether or not the short-term rental accommodation is to be provided as self-contained accommodation;
 - (d) the number of bedrooms in the premises to be provided as short-term rental accommodation;
 - (e) the maximum number of persons to be accommodated in the premises;
 - (f) the name and contact details of the owner of the premises or, if the tenant is the accommodation provider, the tenant of the premises;
 - (g) information provided to the Commissioner by an accommodation provider or planning authority in relation to approvals, and relevant approval numbers, for short-term rental accommodation on particular registered premises;
 - (h) if the premises are to be managed by an agent of the accommodation provider for the purposes of short-term rental accommodation, the name and contact details of the agent;
 - (i) any other prescribed information.
- (4) The Commissioner may make corrections to the Register.

32. Disclosure of Register information

- (1) The Commissioner must provide information as to whether or not residential premises are registered premises free of charge to the public in the manner determined by the Commissioner.
- (2) The Commissioner is not required to make the information specified in subsection (1) publicly available if the Commissioner considers it appropriate in the circumstances of a particular case not to do so.
- (3) The Commissioner may make information about the number of registered premises located in the whole or part of a local government district available to the public in the manner determined by the Commissioner.
- (4) The Commissioner may provide information as to whether or not premises are registered premises, and the registration number of premises, for the purposes of compliance with this Act, to —
 - (a) a booking platform provider, or an agent of a booking platform provider; or
 - (b) an owner of an advertising publication, or an agent of an owner; or
 - (c) an agent of a short-term rental accommodation provider.
- (5) The Commissioner may disclose information kept in the Register in the prescribed circumstances, if any.

Part 5 — Functions of Commissioner

33. General functions of Commissioner

The functions of the Commissioner include the following —

- (a) to promote the operation and effect of this Act;
- (b) to investigate and research matters relating to short-term rental accommodation and the operation of this Act;
- (c) to publish reports and information relating to short-term rental accommodation and the operation of this Act;
- (d) to perform other functions associated with the operation or enforcement of this Act, or otherwise conferred on the Commissioner under, or for the purposes of, this Act.

34. Exchange of information

- (1) In this section —

relevant agency means —

- (a) a public sector body; or
- (b) a local government; or
- (c) a planning authority; or
- (d) a prescribed body.

- (2) The Commissioner may provide information to a relevant agency that is reasonably necessary for the purposes of —

- (a) enabling or assisting the agency to regulate or take other action in relation to the use of residential premises as short-term rental accommodation; or
- (b) research or policy development by the agency relating to short-term rental accommodation.

- (3) A relevant agency may provide information to the Commissioner that is reasonably necessary for the purposes of

enabling or assisting the Commissioner to exercise the Commissioner's functions under this Act.

- (4) This section does not —
- (a) require the Commissioner to provide information to a relevant agency only in accordance with subsection (2) if that information can otherwise lawfully be provided; or
 - (b) limit the operation of another Act or law under which a relevant agency is authorised or required to disclose information to the Commissioner or another person or body.

35. Disclosure of information by Commissioner relating to certain actions

- (1) The Commissioner may disclose information obtained in connection with the administration or execution of this Act for the purpose of making the public aware of the following matters —
- (a) investigations or inquiries being conducted under this Act into the conduct of a person, and the results of those inquiries;
 - (b) disciplinary action being contemplated or taken under this Act in relation to registered premises, and the outcome of that action.
- (2) Nothing in this section limits the functions or powers of the Commissioner under any other Act.

36. Commissioner may require information to be provided

- (1) The Commissioner may, by written notice given to an accommodation provider, booking platform provider or owner of an advertising publication, or an agent of a provider or owner, require the provider or owner to provide information specified in the notice to the Commissioner in the form and manner specified in the notice.

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- (2) A notice given by the Commissioner under subsection (1) may require the information to be given on 1 or more occasions or on a periodic basis.
- (3) A person must not, without reasonable excuse, fail to comply with a requirement made under this section.
Penalty for this subsection: a fine of \$20 000.

37. Additional restrictions on disclosure of information

- (1) The Commissioner may impose conditions on the disclosure of information under this Act.
- (2) Without limiting subsection (1), the Commissioner may impose conditions that —
 - (a) specify the manner in which the information disclosed is to be provided, used or stored; or
 - (b) impose restrictions on access to the information disclosed; or
 - (c) limit the period for which the information can be used; or
 - (d) specify the manner in which records containing the information are to be disposed of.

38. Application of certain enforcement provisions and defences under *Fair Trading Act 2010*

- (1) Part 7, other than sections 94A, 95, 98, 100 and 108 and Division 4, of the *Fair Trading Act 2010* applies, with any necessary modifications, as if those provisions were part of this Act.
- (2) For the purposes of subsection (1), the *Fair Trading Act 2010* is to be read as if —
 - (a) a reference to “this Act” were a reference to this Act; and

- (b) a reference to “the Minister” were a reference to the Minister administering this Act; and
 - (c) a reference to “the Department” were a reference to the Department within the meaning of this Act; and
 - (d) the words “or 100,” in sections 105(1) were deleted; and
 - (e) the words “or 100” in section 106(3)(b) were deleted; and
 - (f) section 106(3)(c) were deleted.
- (3) Subject to subsection (2), definitions of terms under the *Fair Trading Act 2010* apply to the interpretation of the provisions applied by subsection (1).

Part 6 — Miscellaneous

39. Disclosure of information to relevant agencies and others

A person must not disclose information obtained in connection with the administration or execution of this Act unless the disclosure is —

- (a) made with the consent of the person from whom the information was obtained, or each of them if there is more than one; or
 - (b) made in a manner that could not reasonably be expected to lead to the identification of any person to whom the information relates; or
 - (c) made for the purposes of performing a function under or in connection with this Act; or
 - (d) made for the purposes of giving information to a body established under a written law if —
 - (i) the information concerns the affairs of a person to whom this Act applies; and
 - (ii) the information is given in relation to the performance by that body of a function under or in connection with that written law;
- or
- (e) made for the purpose of disciplinary proceedings arising out of this Act or a report of those proceedings; or
 - (f) made for the purpose of the investigation of any suspected offence or the conduct of proceedings against any person for any offence; or
 - (g) made to a relevant agency, or an agency of the Commonwealth or another State or Territory, for the purpose of the exercise of the agency's functions; or
 - (h) required or permitted under a law of this State or the Commonwealth or another State or Territory; or

- (i) made for the purpose of legal proceedings under the law of this State, the Commonwealth or another State or Territory, or a report of those proceedings; or
- (j) made in other prescribed circumstances.

Penalty: a fine of \$25 000.

40. False or misleading information

- (1) A person must not do a thing described in subsection (2) —
 - (a) in, or in connection with, an application made or a notice or other document given under this Act; or
 - (b) in compliance with, or purported compliance with, a requirement, direction or request under this Act; or
 - (c) for any other purpose under this Act.

Penalty for this subsection: a fine of \$20 000.

- (2) The things to which subsection (1) applies are as follows —
 - (a) making a statement knowing it to be false or misleading in a material particular;
 - (b) omitting from a statement made a thing without which the statement is, to the person's knowledge, misleading in a material particular;
 - (c) giving information that the person knows is false or misleading in a material particular;
 - (d) giving information that omits a thing without which the statement is, to the person's knowledge, misleading in a material particular.

41. Infringement notices and *Criminal Procedure Act 2004*

- (1) If this Act is a prescribed Act for the purposes of the *Criminal Procedure Act 2004* Part 2, this section applies in relation to the service of an infringement notice under that Part by an authorised officer in relation to an alleged offence under this Act.

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- (2) The infringement notice must be served within —
- (a) 21 days after the day on which the authorised officer forms the opinion that there is sufficient evidence to support the allegation of the offence; and
 - (b) 6 months after the day on which the alleged offence is believed to have been committed.
- (3) The *Criminal Procedure Act 2004* Part 2 is modified to the extent necessary to give effect to this section.

42. Liability of officers for offence by body corporate

The Criminal Code section 39 (which provides for the criminal liability of officers of a body corporate) applies to an offence under a provision listed in the Table to this section.

Table

s. 9	s. 10(1) and (2)
s. 11(1) and (2)	s. 12(1) and (2)
s. 13(2)	s. 14(2)
s. 15(2)	s. 16(1) and (2)
s. 28	s. 36(3)
s. 39	s. 40(1)

43. No liability for disclosing information in good faith

If information is disclosed by a person under this Act in good faith —

- (a) no civil or criminal liability is incurred by the person in respect of the disclosure; and

- (b) the disclosure cannot be regarded as a breach of a duty of confidentiality or secrecy imposed by law on the person; and
- (c) the disclosure cannot be regarded as a breach of professional ethics or standards or a principle of conduct applicable to the person's employment or as unprofessional conduct.

44. Protection from liability for wrongdoing

- (1) An action in tort does not lie against a person for doing or omitting to do anything that the person has done or omitted, in good faith, in the performance or purported performance of a function under this Act.
- (2) The State is also relieved of any liability that it might otherwise have had for another person having done or omitted to do anything as described in subsection (1).
- (3) The protection given by this section applies even though the thing so described may have been capable of being done or omitted whether or not this Act had been enacted.

45. Certificate evidence of certain matters

- (1) A document signed by the Commissioner, or by a prescribed officer, certifying the matters set out in subsection (2) is admissible in criminal or civil proceedings under this Act or the *Fair Trading Act 2010* and, in the absence of evidence to the contrary, is evidence of the matters so certified.
- (2) The matters are as follows —
 - (a) that specified premises were or were not registered premises at a specified time or during a specified period;
 - (b) that the registration of specified premises under this Act was or was not suspended at a specified time or during a specified period;

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- (c) that a specified registration number was or was not assigned to specified premises at a specified time or during a specified period.

46. Making applications and giving notice, information and other documents

- (1) In this section —
electronic means includes an electronic database or document system or the use of any other means by which a document can be accessed electronically.
- (2) The regulations may make provision for and in relation to the following —
 - (a) the making of an application, or the giving of notice or information or a document, required or permitted to be given under this Act (including by electronic means);
 - (b) the time at which the application is taken to have been made or the notice, information or document is taken to have been given;
 - (c) means of satisfying a requirement under this Act in relation to an application or document in writing (for example, a requirement that the original of a document be given or that a document be signed) if the application is made, or document is given, by electronic means.

47. Relationship of Act to local laws

- (1) A local law is inoperative to the extent that it provides for a registration scheme for residential premises used for short-term rental accommodation.
- (2) Nothing in this section affects a provision of a local law that provides for other requirements for short-term rental accommodation that are not inconsistent with —

- (a) requirements under this Act, including requirements for registration, advertisements or the provision or display of information under this Act; or
- (b) requirements under a code of conduct prescribed under this Act.

48. Recovery of unpaid fees

A fee payable under this Act may be recovered by the Commissioner as a debt in a court of competent jurisdiction.

49. Code of conduct

The Governor may make regulations for or in relation to the following matters —

- (a) a code of conduct regulating the conduct of 1 or more classes of participants in the provision, advertising, booking or management or occupation of residential premises used, or proposed for use, for short-term rental accommodation;
- (b) the process for preparing and consulting on the code of conduct;
- (c) the enforcement of the code of conduct, including the imposition of suspension or cancellation of registration of residential premises for specified breaches of the code;
- (d) the publication of codes of conduct.

50. Regulations

- (1) The Governor may make regulations prescribing matters —
 - (a) required or permitted by this Act to be prescribed; and
 - (b) necessary or convenient to be prescribed for giving effect to the purposes of this Act.

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- (2) Without limiting subsection (1), regulations may be made about any of the following matters —
- (a) the issue, use and display of certificates of registration and registration numbers;
 - (b) the provision of information about registration and registration numbers if bookings or inquiries about accommodation are made in person or by telephone;
 - (c) fees for the purposes of this Act, including registration fees;
 - (d) requirements for evidence that residential premises may be lawfully used for short-term rental accommodation;
 - (e) the provision of information to the Commissioner by accommodation providers, booking platform providers, owners of advertising publications or agents of owners or providers;
 - (f) the conduct and regulation of registration under this Act.
- (3) The regulations may provide for offences against the regulations and prescribe penalties for those offences not exceeding a fine of \$5 000.
- (4) If the regulations adopt a code, standard or rule, other than subsidiary legislation to which the *Interpretation Act 1984* section 41 applies —
- (a) the code, standard or rule is adopted as existing or in force when the regulations are made; and
 - (b) any amendments made to the code, standard or rule after the regulations are made have no legal effect as part of the regulations unless they are specifically adopted by later regulations or a later amendment to the regulations.

51. Review of Act

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review, as soon as practicable after the 3rd anniversary of the day on which this section comes into operation.
- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 3rd anniversary.

Part 7 — Transitional provision

52. Transitional period for compliance with advertising and registration obligations

- (1) Part 2 does not apply to an accommodation provider, owner of an advertising platform, booking platform provider or an agent of a provider or owner during the period commencing on the commencement of that Part and ending on the day that is 6 months after that commencement (the *transition period*).
- (2) The regulations may extend the term of registration for residential premises registered during the transition period, but only so that the term ends not later than 12 months after the end of the transition period.
- (3) The regulations may make provision for or with respect to the fees payable under this Act by a person who applies for registration of residential premises during the transition period.

Part 8 — *Fair Trading Act 2010* amended

53. Act amended

This Part amends the *Fair Trading Act 2010*.

54. Section 88E amended

In section 88E(1A) delete “1946.” and insert:

1946 or the *Short-Term Rental Accommodation Act 2024*.

55. Schedule 2 amended

In Schedule 2 insert in alphabetical order:

Short-Term Rental Accommodation Act 2024

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Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
accommodation provider	3
advertisement	3
advertising publication	3
arrangement	3
booking platform	3
booking platform provider	3
building standard	3
Commissioner	3
Department	3
designated officer	29(4)
development	3
development approval	3
electronic means	46(1)
hosted accommodation	3, 5(1)
online platform	3
owner	3
planning Act	3
planning authority	3
planning scheme	3
premises	3
prescribed	3
prohibited advertisement	3
public sector body	3
Register	3
registered premises	3
registration number	3
relevant agency	3, 34(1)
residential premises	3
self-contained accommodation	3
short-term rental accommodation	3
short-term rental arrangement	3, 4(1)
tenant	3
transition period	52(1)
Tribunal	3

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