

CLAUSE NOTES

Short Stay Accommodation Bill 2018

Clause 1 **Short title**

This clause cites the short title of the Act – the *Short Stay Accommodation Bill 2018*.

Clause 2 **Commencement**

This clause provides for the Act to commence upon receiving Royal Assent.

Clause 3 **Interpretation**

This clause defines a range of key terms used in the Act, including:

- applicable premises
- booking platform
- booking platform provider
- customer
- Director of Building Control
- excluded premises
- financial quarter
- planning authority
- premises
- primary residence
- relevant listing period
- relevant permit
- short stay booking service arrangement
- short stay customer arrangement
- short stay premises
- short stay premises provider
- short stay purposes
- tenancy agreement
- transition period

Many of the terms are used to identify the premises to which the Act applies.

Many of the terms are used to define other terms in clause 3 and therefore must be read in conjunction with each other.

Subclause 3(2) identifies how the relevant information in relation to a short stay premises is to be supplied to the booking platform provider (see clauses 4 and 6 of the clause notes).

Clause 4 Relevant information in relation to short stay premises

This clause identifies information that is relevant to the short stay premises for the purposes of this Bill. This information includes –

- a statement as to whether there is a relevant permit for the premises, whether the premises is exempt from requiring a permit, or whether the premises otherwise has existing use rights established under s.12 of the *Land Use Planning and Approvals Act 1993*;
- where a relevant planning permit is required, the planning permit number;
- the number of bedrooms used for short stay purposes;
- the address of the short stay premises; and
- whether or not the short stay premises comprises all or part of the primary place of residence of the short stay premises provider.

The relevant information specified in this clause is required to be supplied to the booking platform provider (see clause 6 of the clause notes). The booking platform provider must display certain information in relation to the relevant planning permit on the booking platform (see clause 5 of the clause notes). The booking platform provider must also provide the relevant information required by this clause to the Director of Building Control (see clause 7 of the clause notes).

Clause 5 Booking platform providers to ensure display of certain information

This clause sets out the requirements under this Bill for booking platform providers, as follows -

- To not enter into arrangements with a short stay premises provider, or their agent, unless the booking platform provider has obtained all of the relevant information listed in clause 4.
- To not enter into arrangements with a short stay accommodation provider, or their agent, unless the relevant information identified in clauses 4(a) and 4(c) is displayed on the booking platform. The relevant information to be displayed includes the relevant permit number for the short stay premises, or a declaration to the effect that a permit is not required, or that the premises otherwise has existing use rights established under s.12 of the *Land Use Planning and*

Approvals Act 1993.

Penalties apply to booking platform providers that do not comply with these requirements.

This clause applies to all existing short stay premises that have existing arrangements with a booking platform provider, as well as any new short stay premises.

The clause provides a transition period of 6 months from the date the Bill commences. This provides appropriate time for the booking platform providers and existing short stay premises providers to comply with the requirements of the Bill.

Clause 6 Short stay premises to provide certain information to booking platform

This clause sets out the requirements under this Bill for short stay premises providers, or their agents, as follows –

- The short stay premises provider is not to enter into a booking service arrangement with a booking platform provider, unless all of the relevant information listed in clause 4 has been supplied. The relevant information may be supplied to the booking platform provider by the short stay premises provider or an agent acting on their behalf.
- The short stay premises provider is not to not authorise an agent acting on their behalf to enter into a booking service arrangement with a booking platform provider, unless all of the relevant information listed in clause 4 has been supplied to the agent and the agent has been instructed to provide that information to the booking platform provider.
- The short stay premises provider is not to provide false or misleading information to an agent acting on their behalf, or to a booking platform provider.

Penalties apply to short stay premises providers that do not comply with these requirements.

This clause applies to all existing short stay premises providers that have existing arrangements with a booking platform provider, as well as any new short stay premises providers.

The clause provides a transition period of 6 months from the date the Bill commences. This provides appropriate time for existing short stay premises providers to comply with the requirements of the Bill.

Clause 7 Booking platform providers to provide relevant information to Director of Building Control

This clause requires booking platform providers to share information on the relevant listing period and the relevant information set out in clause 4 with the

Director of Building Control within 30 days of the end of each financial quarter.

Penalties apply to booking platform providers that do not comply with these requirements.

This requirement applies to all financial quarters during the 6 month transition period. However, the booking platform provider will not be required to provide any information that has not been supplied by the short stay premises provider as a result of the transition period (see clauses 5 and 6 of the clause notes). The booking platform provider will also not be penalised for information that is unable to be provided during the transition period.

Clause 8 Use by Crown of relevant information

This clause limits the sharing of the relevant information provided by the booking platform provider under clause 7. The Director of Building Control may only share the relevant information with planning authorities, State Service officers, State Service employees, or persons acting under a contract or other arrangement with the Crown or planning authority.

This clause also limits the purpose for which the relevant information can be used to the following –

- assisting in ensuring compliance under the *Land Use Planning and Approvals Act 1993* or the *Building Act 2016*;
- Analysis to assist with the preparation and consideration of policies that will guide the provision of housing and the use of housing for short stay accommodation purposes;
- any purposes prescribed by Regulation; and
- the preparation of reports or other documents for the above purposes.

Penalties apply if the relevant information is supplied to persons that are not identified in this clause, or if the relevant information is published in a manner that identifies individual short stay premises, or the owners or occupiers of the premises.

Clause 9 Regulations

This clause provides a power for the Governor to make regulations for the purposes of the Bill.

Clause 10 Administration of Act

This clause assigns responsibility for the Bill to the Minister for Planning and the Department of Justice.