SHORT STAY ACCOMMODATION ACT 2019

This Information Package has been approved by the Minister for Planning to provide information to short stay premises providers to assist with understanding and complying with the requirements for the *Short Stay Accommodation Act 2019*.

Overview of Short Stay Accommodation Act

The *Short Stay Accommodation Act 2019* (SSA Act) serves two important roles by ensuring that everyone is 'playing by the rules' in relation to the current planning requirements for short stay accommodation and to give a clear indication of the extent of conversions and use of housing for short stay accommodation in Tasmania.

The SSA Act places obligations on the owners or occupiers of premises used for certain types of short stay accommodation that utilise a booking platform like Airbnb and HomeAway to advertise and take bookings for their premises.

The SSA Act came into effect on 4 June 2019.

Requirements for short stay premises providers

The SSA Act requires a short stay premises provider to supply information about the premises to the booking platform provider before entering into a formal agreement to advertise the premises on the booking platform.

INFORMATION REQUIRED

- Confirmation that the premises has the required planning permit (including the permit number), does not require a planning permit, or has existing use rights.
- Street address of the premises.
- Number of bedrooms used for short stay accommodation.
- Whether the premises comprises all or part of the primary place of residence of the short stay premises provider.

New and existing short stay premises providers are required to supply this information to the booking platform provider.

FREQUENTLY ASKED QUESTIONS

What is short stay accommodation?

Short stay accommodation refers to premises that are let out to paying guests for overnight accommodation, generally to people who are on holiday or vacation. This may be for a very short period (one or two nights) or for extended periods (a number of weeks). The term 'short stay' generally describes the accommodation as being on a temporary basis, rather than a longer-term residential use.

Short stay accommodation does not include the letting out of premises under a residential tenancy agreement under the *Residential Tenancy Act 1997*, or any other arrangement under which a person uses the premises as their primary place of residence. If a person is granted a right of occupancy of a premises for a period greater than three (3) months, it would normally be considered as a residential tenancy agreement.

Who qualifies as a short stay premises provider?

A short stay premises provider is the owner or occupier of a premises who uses, or seeks to use, it for short stay accommodation.

An agent acting on behalf of the owner or occupier is not a short stay premises provider for the purposes of the SSA Act.

What types of short stay accommodation are applicable?

The SSA Act applies to short stay accommodation let out to guests through a dedicated booking platform, such as Airbnb or HomeAway, if it is located within any of the following planning scheme zones:

- General Residential Zone
- Inner Residential Zone
- Low Density Residential Zone
- Rural Living Zone
- Environmental Living Zone
- Village Zone
- Activity Area 1.0 Inner City Residential (Wapping)

The SSA Act does not apply to hotels, motels or caravan parks.

What is a booking platform?

For the purposes of the SSA Act, a booking platform is an online platform that provides a means for advertising and booking short stay accommodation for multiple premises, such as Airbnb and HomeAway.

It does not include:

- platforms that only advertise and provide no booking service for short stay accommodation, such as newspaper classifieds, Gumtree and Facebook;
- websites that provide price comparisons for short stay accommodation with links to separate platforms for booking accommodation;
- websites operated by the short stay premises provider that provide a means of booking accommodation; or
- platforms that provide a booking service but do not provide a means of advertising multiple premises, such as booking platforms that only provide booking add-on software to websites operated by the short stay premises provider, such as Newbook, Channel Manager and Resonline.

How do I determine which zone I am located in?

The planning scheme zone can be determined by viewing the planning scheme zone maps available on the Land Information System Tasmania (the LIST).

To access the planning scheme zone maps:

1. Load LISTmap (https://maps.thelist.tas.gov.au/listmap/app/list/map).
2. Add the layers for either 'Tasmanian Interim Planning Scheme Zoning' or 'Sullivans Cove Planning Zones' (whichever is applicable).
3. Search the address of your premises and click on the map to determine the current zone.

Contact your local council if you require any assistance.

How do I determine whether I need a planning permit?

The current planning requirements specify that a planning permit is required for all short stay accommodation in a residential zone, unless it is within a dwelling that is used by the owner or occupier as their main place of residence and:

- the dwelling is only let out to visitors while the owner or occupier is on vacation or temporarily absent; or
- visitors are accommodated in not more than 4 bedrooms while the owner or occupier is living there.

More information is available on the Tasmanian Planning Reform website: https://www.planningreform.tas.gov.au/home

Nothing further is required if you currently have a planning permit for your short stay accommodation.

Contact your local council if you are unsure whether you already have a planning permit, or if you are uncertain on whether a planning permit is required.

How do I determine if I have existing use rights?

A planning permit may not have been issued for short stay accommodation that has been in operation for many years. This could be due to it commencing at a time when there was no planning scheme in effect or before there was a need for a planning permit.

These premises will have existing use rights established under Section 12 of the *Land Use Planning and Approvals Act 1993*[1].

If you are uncertain, it is recommended that you contact your local council to assist in determining whether you have existing use rights.

I am an existing short stay premises provider that utilises a booking platform. How does the Short Stay Accommodation Act affect me?

The SSA Act applies to both new and existing short stay premises providers that use, or seek to use, a booking platform for advertising and booking accommodation.

What happens to the information that I supply to the booking platform provider?

The booking platform provider is required to supply your information to the Director of Building Control. The information will be made available to State and local government, or others acting on their behalf, for the following purposes:

- to assist with ensuring compliance with planning and building requirements;
- for analysis purposes in considering and determining policies on housing and the use of housing for short stay accommodation in Tasmania;
- reporting on short stay accommodation in Tasmania; and
- any other purposes prescribed by Regulation in the future.

[1] Section 12(1) of the *Land Use Planning and Approvals Act 1993* allows for the continuance of a use that was lawfully commenced prior to any new planning requirements coming into effect through a planning scheme. This establishes existing use rights for an existing use of a building for short stay accommodation that had lawfully commenced. Clause 5.02 of all interim planning schemes and clause 4.0.2 of the State Planning Provisions also clarifies that such use does not require a planning permit.

The privacy of short stay premises providers will be protected. The information cannot be published in a form that enables individual premises or owners/occupiers to be identified.

Are there penalties if I do not supply the required information?

Yes, penalties apply if the required information is not supplied, or if the information is false or misleading. The following penalties apply:

Offence	Entering into a formal agreement with a booking platform provider without supply the required information	Providing false or misleading information to the booking platform provider
Penalty	Up to 50 penalty units (currently $8400) per premises.	Up to 50 penalty units (currently $8400) per premises.

Enquiries

Further information on the *Short Stay Accommodation Act 2019* is available on the Planning in Tasmania website: https://www.planningreform.tas.gov.au/home

Any enquiries can be directed to the State Planning Office within the Department of Premier and Cabinet at stateplanning@dpac.tas.gov.au or by telephoning 1300 703 977.

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