

SHORT STAY ACCOMMODATION ACT 2019: OVERVIEW

Overview

The *Short Stay Accommodation Act 2019* (SSA Act) came into effect on 4 June 2019 and is a direct response to the commitments from the Housing Summit hosted by the Premier of Tasmania on 15 March 2018. Specifically, it delivers a data sharing partnership with booking platforms that offer short stay accommodation in Tasmania.

The SSA Act serves two important roles. It ensures that everyone is 'playing by the rules' in relation to the current planning requirements for short stay accommodation, and provides a clear indication of the extent that housing is used for short stay accommodation in Tasmania.

The SSA Act introduces measures for the collection of information on short stay accommodation in Tasmania to:

- provide greater support for local councils in enforcing the existing planning requirements for short stay accommodation; and
- allow for a better understanding of the impacts on the broader housing markets.

The SSA Act places obligations on the owners or occupiers of premises used for certain types of short stay accommodation (the "short stay premises provider") and the operator of a booking platform (the "booking platform provider") that advertises and takes bookings for these premises.

What is 'short stay' accommodation and what does the Short Stay Accommodation Act apply to?

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.

The SSA Act applies to short stay accommodation let out to guests through a dedicated booking platform, such as Airbnb, HomeAway (previously known as StayZ), or Booking.com, 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.

Why is the Short Stay Accommodation Act limited to certain types of accommodation?

The SSA Act is limited to certain short stay accommodation located within the residential zones in existing planning schemes to align with [Planning Directive No. 6 – Exemption and Standards for Visitor Accommodation in Planning Schemes](#).

In addition to ensuring compliance with existing planning requirements, the SSA Act aims to collect information to give a clearer indication of the extent that housing is used for short stay accommodation in Tasmania.

While short stay accommodation exists in many planning scheme zones, such as business and rural zones, the impacts on housing are clearly greatest in the residential zones. It is within the residential zones that an increase in short stay accommodation, specifically through the conversion of existing houses, can affect housing affordability and housing availability.

The SSA Act is also limited to short stay accommodation listed on a booking platform.

The majority of short stay accommodation available in Tasmania utilises a booking platform for advertising and booking purposes. The booking platforms therefore provide a convenient and coordinated means for collecting information on the operation of short stay accommodation in Tasmania.

Who is a short stay premises provider and what are they required to do?

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

The SSA Act requires a short stay premises provider to supply the following information to a booking platform provider before entering into a formal agreement to advertise the premises and take bookings through the booking platform:

- a statement confirming that the short stay accommodation:
 - has the required planning permit and identifies the relevant planning permit number;
 - does not require a planning permit¹; or
 - has existing use rights established under section 12 of the *Land Use Planning and Approvals Act 1993*²;
- the address of the premises and how many bedrooms are used for short stay accommodation; and
- whether the premises comprises all or part of the primary place of residence for the provider.

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

Penalties apply if this information is not supplied, or if the information is false or misleading.

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

¹ Short stay accommodation within a dwelling is exempt from requiring a planning permit if the dwelling is used by the owner or occupier as their primary 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.

² 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 previously 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.

premises provider, such as Newbook, Channel Manager and Resonline.

What is the booking platform provider required to do?

The booking platform provider must not enter into a formal agreement with a short stay premises provider to advertise and take bookings for short stay accommodation, unless the short stay premises provider has supplied all the required information.

The booking platform provider must display the relevant planning permit number of each premises, or a statement that a planning permit is not required, or that the premises has existing use rights established under section 12 of the *Land Use Planning and Approvals Act 1993*.

The booking platform provider is also required to provide to the Director of Building Control at the end of each financial quarter with:

- all information received from the short stay premises provider for each premises listed on the platform; and
- the period that the premises was displayed on the platform during that financial quarter.

Penalties apply if the booking platform does not comply with these requirements.

What is the information used for?

State and local government, or others acting on their behalf, will use the information received:

- 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.

Penalties apply for supplying the information to others or publishing information that enables individual premises or owners/occupiers to be identified.

What penalties apply?

New penalties apply for offences committed by a short stay premises provider or a booking platform provider under the SSA Act.

New penalties apply to State and local government for the misuse of information received.

Existing penalties also apply to short stay premises providers under the *Land Use Planning and Approvals Act 1993* and the *Building Act 2016* if they do not have the

required planning or building permits to operate short stay accommodation.

Appendix I provides details of the applicable penalties under the SSA Act.

Where can I get more information?

A copy of the *Short Stay Accommodation Act 2019* is available on the Tasmanian Legislation Online website at: <https://www.legislation.tas.gov.au/>.

More information on the *Short Stay Accommodation Act 2019* is available on the [Tasmanian Planning Reform website](#).

Enquiries

Any enquiries can be directed to the Planning Policy Unit within the Department of Justice at Planning.Unit@justice.tas.gov.au or by telephoning (03) 6166 1429.

December 2019

Appendix I: Penalties applicable under the Short Stay Accommodation Act 2019

Short Stay Premises Provider

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.

Booking Platform Provider

Offence	Entering into a formal agreement with a short stay premises provider without receiving the required information	Not displaying the required information on the booking platform for each premises	Not providing the required information to the Director of Building Control on each premises with 30 days of the end of each financial quarter
Penalty	Up to 100 penalty units (currently \$16,800) per premises. Recurring penalty of up to 10 penalty units (currently \$1680) per day if the offence continues.	Up to 100 penalty units (currently \$16,800) per premises. Recurring penalty of up to 10 penalty units (currently \$1680) per day if the offence continues.	Up to 50 penalty units (currently \$8400) per premises

State and Local Government

Offence	Making information available to a person to allowed under the Short Stay Accommodation Act	Publishing information that allows individual premises or owners/occupiers to be identified
Penalty	Up to 50 penalty units (currently \$8400)	Up to 50 penalty units (currently \$8400).