

Authorised Version

Short Stay Levy Act 2024

No. 40 of 2024

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Authorised Version



Victoria

Short Stay Levy Act 2024[†]

No. 40 of 2024

[Assented to 29 October 2024]

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The purposes of this Act are—

- (a) to impose a levy in relation to the provision of short stay accommodation; and
- (b) to amend the **Owners Corporations Act 2006** in relation to prohibiting the use of lots as short stay accommodation; and
- (c) to make consequential amendments to the **Taxation Administration Act 1997**.

2 Commencement

This Act comes into operation on 1 January 2025.

3 Definitions

In this Act—

booking platform has the meaning given by section 4;

booking platform provider means a person who provides a booking platform;

direct booking means a short stay booking that is made without using a booking platform;

GST has the same meaning as it has in the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth;

occupancy agreement means a licence, management agreement or any other kind of agreement or arrangement under which a person has exclusive occupation of premises, other than a residential rental agreement;

owner of premises means any of the following—

- (a) a person who holds a freehold interest in the land on which the premises are situated;
- (b) if the premises are on Crown land—
 - (i) if the land is unalienated Crown land—the Crown; or
 - (ii) if the Crown has granted a lease or licence over the land—the lessee or licensee of the land;

premises means—

- (a) the whole or part of any building or other structure; or
- (b) a caravan or any other vehicle;

registered short stay levy payer means a person registered under section 17;

renter means the person to whom premises are let under a residential rental agreement;

residential rental agreement has the same meaning as it has in section 3(1) of the **Residential Tenancies Act 1997**;

return period means the period referred to in section 16;

short stay, in relation to premises, means occupation of the premises for a continuous period of less than 28 days;

short stay accommodation has the meaning given by section 5;

short stay accommodation provider means a person who provides short stay accommodation for short stays;

short stay booking has the meaning given by section 6;

short stay levy means the levy imposed by section 10;

total booking fee has the meaning given by section 7;

vehicle has the same meaning as it has in section 3(1) of the **Road Safety Act 1986**;

year means a calendar year.

4 Meaning of *booking platform*

- (1) For the purposes of this Act, a person provides a *booking platform* if the person carries on the business of—
- (a) facilitating requests to book a short stay in short stay accommodation; and

- (b) arranging or facilitating the acceptance of those requests by or on behalf of short stay accommodation providers.
- (2) In determining whether a person provides a booking platform, it does not matter—
 - (a) whether or not the service has a website on the Internet; or
 - (b) whether or not an act referred to in subsection (1)(a) or (b) involves the use of a wholly or partly automated system; or
 - (c) whether or not the service facilitates payment of any fee for the short stay booking; or
 - (d) whether or not the person who carries on the business is located in Victoria.
- (3) However, a booking platform does not include a service that refers a person to another service for the purposes of the person using that other service to do the things referred to in subsection (1)(a) and (b).

5 Meaning of *short stay accommodation*

- (1) For the purposes of this Act, ***short stay accommodation*** means any premises that can accommodate a person, other than premises specified in subsection (2).
- (2) Short stay accommodation does not include any of the following—
 - (a) premises that are occupied as the principal place of residence of a natural person who is the owner or renter of the premises;
 - (b) commercial residential premises within the meaning of section 195-1 of the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth;

- (c) a residential care facility within the meaning of section 3(1) of the **Land Tax Act 2005**;
 - (d) a retirement village within the meaning of section 3(1) of the **Retirement Villages Act 1986**;
 - (e) a registered rooming house within the meaning of section 3(1) of the **Residential Tenancies Act 1997**;
 - (f) student accommodation provided by a higher education provider within the meaning of section 16-1 of the Higher Education Support Act 2003 of the Commonwealth;
 - (g) a supported residential service within the meaning of section 3(1) of the **Supported Residential Services (Community Visitors) Act 2010**;
 - (h) temporary crisis accommodation within the meaning of section 3(1) of the **Residential Tenancies Act 1997**;
 - (i) accommodation provided by or in connection with a facility to accommodate any person who has a connection to the facility, including a contractor or employee or a person who is a client of the facility.
- (3) For the purposes of determining under this section whether premises are short stay accommodation, it does not matter—
- (a) whether or not the premises are used for more than one purpose, including a purpose other than the provision of short stay accommodation; or
 - (b) whether or not the premises are permanent or temporary, or fixed to land or mobile.

- (4) For the purposes of subsection (2)(a)—
- (a) in determining whether premises are the principal place of residence of a person, regard must be had to every place of residence of that person, whether in Victoria or elsewhere; and
 - (b) premises are taken not to be the principal place of residence of a renter if, in the Commissioner's opinion, the residential rental agreement for the premises is made for the purposes of avoiding payment of the short stay levy.

6 Meaning of *short stay booking*

- (1) For the purposes of this Act, a *short stay booking* means a booking for a short stay in premises by a person.
- (2) In determining whether a booking is for a short stay, regard must be had to the following terms of the booking—
 - (a) the date on which a person is permitted to commence occupation of the premises;
 - (b) the date on which a person is required to vacate the premises.
- (3) To avoid doubt, a short stay booking does not include a residential rental agreement.

7 Meaning of *total booking fee*

- (1) For the purposes of this Act, the *total booking fee* for a short stay booking means the total amount that is payable for the booking, other than—
 - (a) any amount that, on the cancellation of the short stay booking or any part of the short stay booking, has been waived or provided as a credit or refund; and

- (b) any amount charged in respect of the payment method used to pay the amount payable for the booking.
- (2) To avoid doubt, the total amount that is payable for a short stay booking includes—
- (a) any amount included in respect of the short stay levy; and
 - (b) any amount included in respect of GST; and
 - (c) any amount payable for any period during which the person does not occupy the premises, unless that amount is waived or provided as a credit or refund.

8 Taxation Administration Act 1997

This Act is to be read together with the **Taxation Administration Act 1997** which provides for the administration and enforcement of this Act and other taxation laws.

9 Act binds the Crown

- (1) This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.
- (2) Nothing in this Act makes the Crown in any of its capacities liable to be prosecuted for an offence.

Part 2—Imposition of short stay levy

10 Short stay levy imposed

This Act imposes a levy in respect of a short stay in short stay accommodation located in Victoria for which a fee is payable.

11 When does liability for the short stay levy arise?

- (1) Liability for the short stay levy arises on the date that a short stay in short stay accommodation is completed.
- (2) A short stay in short stay accommodation is completed on the date on which a person is required under the terms of the short stay booking to vacate the short stay accommodation, regardless of whether the person—
 - (a) vacates the short stay accommodation on that date or on an earlier date; or
 - (b) occupies the short stay accommodation during the period of the short stay booking.
- (3) However, a short stay in short stay accommodation is not completed if the short stay booking is cancelled and the total booking fee is waived, credited or refunded.

12 Who is liable for the short stay levy?

- (1) In the case of a short stay booking made through a booking platform, the booking platform provider is liable to pay the levy imposed in respect of the short stay.
- (2) In the case of a direct booking for a short stay in short stay accommodation—
 - (a) if the direct booking is made with the renter of the short stay accommodation, the renter is liable to pay the levy imposed in respect of the short stay; or
 - (b) if the direct booking is made with a person who has exclusive occupation of the short stay accommodation under an occupancy agreement with the renter, the renter is liable to pay the levy imposed in respect of the short stay; or
 - (c) in any other case, the owner of the short stay accommodation is liable to pay the levy imposed in respect of the short stay.

13 Rate of short stay levy

- (1) The rate of the short stay levy is 7.5% of the total booking fee for a short stay in short stay accommodation.
- (2) If the amount determined under subsection (1) is not a multiple of 5 cents, the amount must be rounded down to the nearest multiple of 5 cents.

14 Booking fee quoted in foreign currency

For the purposes of this Act, if the total booking fee is quoted in a currency other than Australian currency, the amount of the total booking fee is to be converted to Australian currency at the exchange rate published by the Reserve Bank of Australia—

- (a) on the day on which the short stay booking is made; or
- (b) if the rate is not published on that day, on the last day on which the rate was published before that day.

15 Obligation of licensees of short stay accommodation

- (1) A person (other than the owner or renter) who has exclusive occupation of short stay accommodation under an occupancy agreement with the owner or the renter of the short stay accommodation and accepts direct bookings for the short stay accommodation (the *occupier bookings*) must pay to the owner or renter (as the case requires)—
 - (a) for each return period, the amount of the short stay levy payable in respect of the occupier bookings that are completed during that return period; and
 - (b) the amount of any GST payable in respect of the amount referred to in paragraph (a).
- (2) The person must pay the amount required by this section at or before the time that the owner or renter (as the case requires) is required to pay the short stay levy in respect of the occupier bookings.

Note

A registered short stay levy payer is required to pay the short stay levy within 30 days after the end of the relevant return period.

- (3) The person must pay to the owner or renter (as the case requires) an amount equal to any interest and penalty tax imposed under Part 5 of the **Taxation Administration Act 1997** on the short stay levy payable in respect of the occupier bookings if—

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- (a) the person does not pay the amount required under subsection (1) within the time specified in subsection (2); and
 - (b) a tax default occurs because the owner or renter of the short stay accommodation fails to pay the whole or part of the short stay levy payable in respect of the occupier bookings.
- (4) On request of the person who has exclusive occupation of the premises, the owner or renter (as the case requires) must provide the person with a copy of the return lodged with the Commissioner in respect of the occupier bookings completed during the relevant return period.
- (5) If a person does not pay an amount as required by this section, the owner or renter (as the case requires) may recover the amount as a debt in a court of competent jurisdiction.
- (6) This section has effect despite the terms of any occupancy agreement, but only until the earlier of the following—
- (a) the parties to the occupancy agreement expressly agree that this section is not to apply;
 - (b) the amount payable under the occupancy agreement by the person who occupies the short stay accommodation is or could be reviewed, or the occupancy agreement could be terminated, by either party.

Part 3—Registration, returns and other matters

16 Return period

- (1) The return period for the short stay levy is—
 - (a) for a person who exceeded the annual threshold in the previous year, a 3 month period commencing on 1 January, 1 April, 1 July and 1 October; or
 - (b) in any other case, a year.
- (2) A person exceeds the annual threshold if the total amount of the person's relevant booking fees in a year is \$75 000 or more.
- (3) In this section, a person's *relevant booking fees* in a year means—
 - (a) in the case of a person who provides one or more booking platforms, the total booking fees for short stay bookings that—
 - (i) relate to short stay accommodation located in Victoria; and
 - (ii) are made through a booking platform that the person provides; and
 - (iii) are for short stays that are completed in that calendar year; or
 - (b) in the case of an owner of short stay accommodation, the total booking fees for short stay bookings that—
 - (i) relate to short stay accommodation located in Victoria; and
 - (ii) are made as direct bookings in short stay accommodation owned by the owner, other than direct bookings referred to in paragraph (c)(ii); and

- (iii) are for short stays that are completed in that calendar year; or
- (c) in the case of a renter of short stay accommodation, the total booking fees for short stay bookings that—
 - (i) relate to short stay accommodation located in Victoria; and
 - (ii) are made as direct bookings with the renter of the short stay accommodation or with a person who has exclusive occupation of the short stay accommodation under an occupancy agreement with the renter; and
 - (iii) are for short stays that are completed in that calendar year.

17 Registration for payment of short stay levy

- (1) A person must apply to the Commissioner in accordance with this section for registration under this Part if—
 - (a) the person provides a booking platform for short stay accommodation in Victoria; or
 - (b) the person is an owner or renter of short stay accommodation and direct bookings are made for short stays in the short stay accommodation.
- (2) The application must be made before the end of the first return period in which the person is liable for the levy.
- (3) The application must be in the form, and contain the information, determined by the Commissioner.
- (4) The Commissioner must register a person under this Part if the Commissioner receives an application for registration under this section.

18 Lodgment of return and payment of tax

- (1) Within 30 days after the end of a return period, a registered short stay levy payer or a person who is required to be registered under this Part must—
 - (a) lodge a return in respect of the return period; and
 - (b) pay to the Commissioner the amount of the short stay levy for which the person is liable under this Act in respect of short stay bookings completed during the return period.
- (2) A registered short stay levy payer must lodge a return under subsection (1) even if the person is not liable for the short stay levy in the return period.
- (3) The return is to be in the form, and contain the information, determined by the Commissioner.
- (4) Information referred to in subsection (3) includes any information that the Commissioner requires to determine whether the person is liable for the short stay levy in the return period.

19 Requirement to notify changes

- (1) A registered short stay levy payer must notify the Commissioner if, because of a change in circumstances, the registered short stay levy payer—
 - (a) is no longer incurring a liability for the short stay levy; and
 - (b) does not expect to incur any such liability in the future.

- (2) A registered short stay levy payer must give notice under subsection (1)—
 - (a) if the registered short stay levy payer has a liability for the short stay levy in the current return period, within 14 days of the date on which the person is required to lodge a return for the return period; or
 - (b) in any other case, within 14 days of the date of the change in circumstances.
- (3) The Commissioner must cancel the registration of the person on receipt of a notice given under this section.

20 Cancellation of registration for payment of short stay levy

- (1) The Commissioner, by written notice given to a registered short stay levy payer, may cancel the person's registration under this Part for any reason that the Commissioner considers appropriate.
- (2) The cancellation of a person's registration has effect from the date specified in the notice given by the Commissioner under subsection (1).

21 Declaration that premises are not short stay accommodation

- (1) An owner of premises must provide a booking platform provider with a declaration under this section if—
 - (a) the premises are not rented to a renter under a residential rental agreement; and
 - (b) the premises are available for short stay bookings facilitated by the booking platform; and
 - (c) the premises are not short stay accommodation.

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Part 3—Registration, returns and other matters

- (2) A renter of premises must provide a booking platform provider with a declaration under this section if—
 - (a) the premises are available for short stay bookings facilitated by the booking platform; and
 - (b) the premises are not short stay accommodation.
- (3) A declaration under this section must be in the form, and contain the information, determined by the Commissioner.
- (4) A booking platform provider who receives a declaration under this section must retain the declaration for not less than 5 years after the date of receipt.
- (5) Despite section 12, if the Commissioner determines that the premises are short stay accommodation, the person who made the declaration and the booking platform provider are liable jointly and severally to pay—
 - (a) any amount of the short stay levy payable on short stay bookings in the short stay accommodation; and
 - (b) any interest and penalty tax imposed under Part 5 of the **Taxation Administration Act 1997** on the short stay levy if a tax default occurs.
- (6) A booking platform provider who pays an amount in accordance with the liability imposed by this section may recover the amount from the person who made the declaration as a debt in a court of competent jurisdiction.

Part 4—General

22 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing that is required or permitted to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) Regulations made under this Act—
 - (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place or circumstances.

Part 5—Transitional provisions

23 Transitional arrangements

Section 10 does not apply to a short stay booking made before 1 January 2025, regardless of whether the short stay is completed on or after 1 January 2025.

Part 6—Amendment of other Acts

Division 1—Owners Corporations Act 2006

24 Definitions

In section 3 of the **Owners Corporations Act 2006**, in the definition of *short-stay accommodation arrangement*, for "maximum period of 7 days and 6 nights" **substitute** "continuous period of less than 28 days".

25 Division 1A of Part 10 amended

In the heading to Division 1A of Part 10 of the **Owners Corporations Act 2006**, for "short-stay accommodation arrangements" **substitute** "conduct of short-stay occupants".

26 Section 159A amended

In the heading to section 159A of the **Owners Corporations Act 2006**, for "short-stay accommodation arrangements" **substitute** "conduct of short-stay occupant".

27 Section 159C amended

In the heading to section 159C of the **Owners Corporations Act 2006**, for "short-stay accommodation arrangement complaint" **substitute** "complaint about conduct of short-stay occupant".

28 Section 159D amended

In the heading to section 159D of the **Owners Corporations Act 2006**, for "short-stay accommodation arrangement complaint" **substitute** "complaint about conduct of short-stay occupant".

29 Division 1A of Part 11 amended

In the heading to Division 1A of Part 11 of the **Owners Corporations Act 2006**, for "**disputes**" substitute "**disputes—conduct of short stay occupants**".

30 Schedule

In Schedule 1 to the **Owners Corporations Act 2006**, after item 5.4 insert—

"5.5 Prohibition on use of lots as short-stay accommodation (but not prohibiting an owner of a lot, or a lessee or sub-lessee of the owner of a lot, from providing a lot as short-stay accommodation if that person occupies the lot as their principal place of residence).".

Division 2—Taxation Administration Act 1997

31 Meaning of taxation laws

After section 4(1)(d) of the **Taxation Administration Act 1997** insert—

"(da) **Short Stay Levy Act 2024** and regulations made under that Act;".

32 Permitted disclosures to particular persons or for particular purposes

(1) In section 92(1) of the **Taxation Administration Act 1997**—

(a) in paragraph (g), for "**2000.**" substitute "**2000; or**";

(b) after paragraph (g) insert—

"(h) to a Council for the purpose of regulating short stay accommodation, in the case of information obtained under or in relation to the **Short Stay Levy Act 2024.**".

(2) In section 92(2) of the **Taxation Administration Act 1997**—

(a) **insert** the following definitions—

"*Council* has the meaning given by section 3(1) of the **Local Government Act 2020**;

short stay accommodation has the meaning given by section 5 of the **Short Stay Levy Act 2024**.";

(b) in the definition of *public service body*, for "2004." substitute "2004;".

33 Supreme Court—limitation of jurisdiction

After section 135(13) of the **Taxation Administration Act 1997** insert—

"(14) It is the intention of sections 5, 12(4), 18(1), 96(2) and 100(4), as they apply on and after the commencement of the **Short Stay Levy Act 2024**, to alter or vary section 85 of the **Constitution Act 1975**."

Division 3—Repeal of this Part

34 Repeal of this Part

This Part is **repealed** on 1 January 2026.

Note

The repeal of this Part does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

[†] *Minister's second reading speech—*

Legislative Assembly: 28 August 2024

Legislative Council: 12 September 2024

The long title for the Bill for this Act was "A Bill for an Act to impose a levy in relation to the provision of short stay accommodation, to amend the **Owners Corporations Act 2006** and the **Taxation Administration Act 1997** and for other purposes. "

Section 85(5) statement:

Legislative Assembly: 28 August 2024

Legislative Council: 12 September 2024

Absolute majorities:

Legislative Assembly: 12 September 2024

Legislative Council: 17 October 2024