



New South Wales

# Accommodation Levy Act 1997 No 32

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New South Wales

# Accommodation Levy Act 1997 No 32

Act No 32, 1997

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An Act to impose a levy on charges for certain residential accommodation;  
to amend the *Taxation Administration Act 1996*; and for other purposes.  
[Assented to 25 June 1997]

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**The Legislature of New South Wales enacts:**

**Part 1 Preliminary**

**1 Name of Act**

This Act is the *Accommodation Levy Act 1997*.

**2 Commencement**

This Act commences on 1 September 1997.

**3 Object of this Act**

The object of this Act is to impose a levy of 10% on charges for the provision of residential accommodation at a place of accommodation situated within the area to which this Act applies.

**4 Definitions**

In this Act:

*accommodation levy* means the levy charged by this Act, as referred to in section 6.

*backpacker hostel* means premises the principal use of which is to provide sleeping arrangements at low cost to backpackers and which include dormitories with communal and self-catering facilities and an emphasis on guest interaction.

*manager* of a place of accommodation means the person having the day to day management of the place of accommodation.

*place of accommodation* has the meaning given by section 7.

*residential accommodation* means accommodation comprising or including the use, for any length of time, of a room that is provided with a bed or other sleeping facilities.

*room* includes a part of a room and a suite of rooms.

*youth hostel* means premises owned, operated or affiliated with the Youth Hostels Association of New South Wales at which accommodation is provided for Youth Hostels Association members.

## **5 Taxation Administration Act 1996**

This Act is to be read together with the *Taxation Administration Act 1996* which makes provision for the administration and enforcement of this Act and other taxation laws.

## **Part 2 Accommodation levy**

### **6 Charging of accommodation levy**

- (1) A levy is charged by this Act on the total amount, determined in accordance with Part 3, paid or payable for residential accommodation in a place of accommodation to which this Act applies.
- (2) The levy is charged for residential accommodation provided, or agreed to be provided under a legally enforceable agreement, for use or occupation on or after 1 September 1997, whether or not arrangements for the provision of the residential accommodation were made before 1 September 1997.

### **7 Place of accommodation**

- (1) A place is a place of *accommodation* for the purposes of this Act if it is:
  - (a) a hotel, or
  - (b) a motel, or
  - (c) a bed and breakfast establishment, or
  - (d) a holiday flat, or
  - (e) a serviced apartment, or
  - (f) a guesthouse, or
  - (g) a vessel used for a purpose specified in paragraph (a)–(f),  
that provides residential accommodation or is held out as providing residential accommodation, whether or not it also provides other accommodation.
- (2) This Act does not apply to:
  - (a) a boarding house, or
  - (b) a lodging house, or
  - (c) a refuge, or
  - (d) a backpacker hostel, or

- (e) a youth hostel, or
  - (f) a place, or a class of places, declared by the Treasurer by notice published in the Gazette not to be a place of accommodation for the purposes of this Act.
- (3) The Treasurer may amend or repeal a declaration under this section.

### **8 Area to which this Act applies**

This Act applies only to a place of accommodation:

- (a) that is within the area described in Schedule 1, or
- (b) that abuts a section of a public road referred to in Schedule 1.

### **9 Amount of levy**

The amount of the accommodation levy is 10% of the total amount paid or payable for residential accommodation as referred to in section 6.

### **Part 3 Calculation of total amount paid or payable for residential accommodation**

#### **10 General**

For the purposes of this Act, the total amount paid or payable for residential accommodation is the total of the actual amounts paid to or charged for the residential accommodation by the provider of the accommodation, subject to this Part.

#### **11 Exclusion of certain charges**

A reasonable amount paid or payable for any of the following goods or services is not an amount paid or payable for residential accommodation for the purposes of this Act:

- (a) food and drink,
- (b) telephone, facsimile, photocopying and similar services,
- (c) laundry and dry cleaning,
- (d) in-house entertainment,
- (e) car parking,
- (f) hairdressing,
- (g) health or beauty treatment,
- (h) physical exercise,
- (i) goods or services that are prescribed by the regulations for the purposes of this section.

#### **12 Levy included as component of accommodation charge**

If the amount of an accommodation charge includes, as a component of the charge, the accommodation levy appropriate to the charge, an accommodation levy is not chargeable on that component.

#### **13 Avoidance arrangements—determination by Chief Commissioner**

- (1) If the Chief Commissioner is satisfied that an amount paid or payable for residential accommodation has been determined principally to reduce the incidence of the accommodation levy charged under this Act, the Chief Commissioner may determine, for the purposes of this Act, the amount that is payable for the residential accommodation.



- (2) Without limiting the matters that may be taken into account by the Chief Commissioner in making a determination, the Chief Commissioner may have regard to amounts ordinarily paid or payable by other persons, or by different classes of persons, for the same or comparable residential accommodation in the same or comparable circumstances.

## **Part 4 Miscellaneous**

### **14 Periodic returns**

- (1) The manager of a place of accommodation must, within 15 days after the end of each month:
  - (a) lodge a return with the Chief Commissioner for the preceding month, and
  - (b) pay the amount of accommodation levy required to be paid under this Act for that preceding month.

Maximum penalty: 100 penalty units.

- (2) The return must include the following:
  - (a) the name of the place of accommodation,
  - (b) the total amount, determined in accordance with Part 3, paid or payable for residential accommodation for the month to which the return relates,
  - (c) such other information as the Chief Commissioner may require.

### **15 Manager may recover accommodation levy as a debt**

- (1) The manager of a place of accommodation who has specified separately in a document given to an occupant in the place the amount of the accommodation levy attributable to the occupant's use or occupation may recover that amount from the occupant as a debt.
- (2) In the case of joint occupants, the amount may be recovered jointly or severally.

### **16 Amendment of Taxation Administration Act 1996 No 97**

The *Taxation Administration Act 1996* is amended by inserting in the list of Acts in section 4, in alphabetical order, the words "*Accommodation Levy Act 1997*".

### **17 Proceedings for offences**

Proceedings for an offence against this Act or the regulations may be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

**18 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) A regulation may create an offence punishable by a penalty not exceeding 20 penalty units.

**19 Exemptions**

- (1) The Minister may, by instrument in writing, exempt:
  - (a) a person or a class of persons, or
  - (b) a place of accommodation or a class of places of accommodation,from the operation of this Act or a specified provision of this Act.
- (2) An exemption under this section may be limited in duration or may be subject to such factors or circumstances as may be specified in the exemption.
- (3) The Minister may, by instrument in writing, cancel an exemption under this section at any time.

**20 Review of Act**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

## **Schedule 1 Area to which this Act applies**

(Section 8)

The area comprising:

- (a) a region having a boundary that commences at a point on the low water mark of Port Jackson due west of the intersection of Wattle Street and Pymont Bridge Road and that proceeds east to that intersection, south along Wattle Street and Abercrombie Street to the intersection of Abercrombie Street and Cleveland Street, east along Cleveland Street to the intersection of Cleveland Street and South Dowling Street, north along South Dowling Street to the intersection of South Dowling Street and Oxford Street, from that intersection north-east along Barcom Avenue to the intersection of Barcom Avenue and Boundary Street, north-east along Boundary Street to the intersection of Boundary Street and McLachlan Avenue, north-east along McLachlan Avenue to the intersection of McLachlan Avenue and Craighend Street, east along Craighend Street to the intersection of Craighend Street and New South Head Road, east along New South Head Road to the intersection of New South Head Road and Gladswood Gardens, north from that intersection to a point on the low water mark of Port Jackson, and then along the low water mark of Port Jackson to the point of commencement, and
- (b) a region having a boundary that commences at a point on the low water mark of Port Jackson at McMahan's Point wharf and that proceeds west along Henry Lawson Avenue to the intersection of Henry Lawson Avenue and Blues Point Road, north along Blues Point Road to the intersection of Blues Point Road and Union Street, north-west along Union Street to Euroka Street, north along Euroka Street to the intersection of Euroka Street and Carr Street, north-west along Carr Street to the intersection of Carr Street and Crows Nest Road, north-east along Crows Nest Road to the intersection of Crows Nest Road and Morton Street, north-west along Morton Street to the intersection of Morton Street and Gillies Street, west along Gillies Street to the intersection

of Gillies Street and Shirley Road, north along Shirley Road to the intersection of Shirley Road and Falcon Street, east along Falcon Street to Military Road, east along Military Road to the intersection of Military Road and Ben Boyd Road, south along Ben Boyd Road to the low water mark of Port Jackson, and then along the low water mark of Port Jackson to the point of commencement, and

- (c) the waters and islands of Port Jackson.

[Minister's second reading speech made in—  
Legislative Assembly on 6 May 1997  
Legislative Council on 17 June 1997]