

Changes to laws for short-term rental accommodation

Short-term rental accommodation options have changed greatly over the past decade. Technology now easily connects people who want to rent out their private homes or rooms with people who are looking for accommodation in that location.

New laws from 18 December 2020 will impose new obligations on booking platforms, hosts, letting agents and guests.

Important: The Public Health Order affects holiday rentals and holiday homes by imposing limitations on the number of persons who can be on the premises. Short-term rental accommodation providers are required to ensure the maximum number does not exceed 20 persons.

The NSW Government encourages businesses and organisations to complete a COVID-19 Safety Plan where appropriate, even if there is no requirement under the Public Health Order to do so.

What is changing?

Code of Conduct

A mandatory Code of Conduct for the Short-term Rental Accommodation Industry will apply from **18 December 2020**. This will be declared in the regulations, which will be published on the NSW legislation website.

Guest obligations

The Code of Conduct imposes certain behaviour standards on guests in short-term rental accommodation, including:

- You must not make noise that unreasonably disrupts your neighbours
- You must not cause damage to the premises, including any common property in a strata scheme or association property in a community scheme
- You are responsible for the actions of your visitors and must ensure they comply with the behaviour standards set out in the code.

If you don't meet your obligations under the code, you could face penalties such as warning notices, fines or being added to the exclusion register. A person who is listed on the exclusion register is prohibited from participating in the short-term rental accommodation industry for five years.

Host obligations

There will be several new obligations for hosts under the code:

- You must hold insurance that covers your liability for third party injuries and death
- You must enable your neighbours to contact you, or your authorised representatives, about concerns relating to your premises by giving them your contact details and being available between 8am and 5pm each day
- You must take reasonable steps to ensure your guests meet their behaviour obligations in the code, including by making them aware that the code applies to their stay and making a copy of the code readily available to them
- You must ensure you do not rent out your premises to a guest who is recorded on the exclusion register
- A short-term rental accommodation premises register is currently being developed and is expected to commence in 2021. Once this commences, you must register yourself and your premises on the short-term rental accommodation premises register.

Booking platform and letting agent obligations

New requirements for platforms and letting agents include:

- You must tell hosts and guests who use your services about the code, how to lodge a complaint under the code, and about any code-related complaint relating to them that you know about.
- You must not advertise or facilitate the offering of accommodation if the host or premises are recorded on the exclusion register.
- Once the short-term rental accommodation premises register commences in 2021, you can only advertise or facilitate the offering of premises that are registered.

Potential penalties for breaching the code

Breaches of the code may attract the following penalties:

- warnings or directions to take or cease certain action
- fines
- a 'strike' against a host, host's premises, or guest for serious breaches of the code

- recording a guest, host or host's premises on the exclusion register. Two strikes in a two-year period will result in a listing on the exclusion register, which means the person or premises is prohibited from participating in the short-term rental accommodation industry for five years.

The code sets out a fair process that must be followed before a penalty is imposed and the code and Regulation provide for appeals against decisions to impose a penalty for breach of the code.

Fair Trading will provide further advice about enforcement in relation to exclusion register obligations on hosts and platforms before commencement of the code on 18 December 2020. The Fair Trading website will be updated and we will also communicate with the industry directly.

Making a complaint for a breach of the code

You will be able to make a complaint with Fair Trading from 18 December 2020 if you believe that the code has been breached.

In some situations the Commissioner may request that the complaint first be made to another body, if this is appropriate, such as the police or local council.

The code does not change existing complaint handling processes for NSW Police and local councils. Contact your local council if you have an issue or complaint relating to fire safety (including overcrowding), planning approvals, parking or ongoing noise. You can contact the police for urgent noise issues.

Fair Trading Regulation 2019

As well as declaring the Code of Conduct, amendments to the Fair Trading Regulation 2019 will support the operation of the Code of Conduct by:

- prescribing persons who provide property management services ('facilitators') as an additional class of persons to whom the Code applies
- excluding refuge, crisis, disability and some other types of accommodation from the operation of the Code
- providing for appeals against listings on the exclusion register.

What else will be changing?

There will be changes to planning laws in mid-2021, including a new planning policy that applies consistent regulation of the use of premises for short-term rental accommodation across the whole state of NSW.

A short-term rental accommodation premises register is currently under development for commencement in mid-2021. Hosts will be required to register

their premises once that obligation is mandated by the Department of Planning, Industry and Environment and the register itself becomes available online.

More information about this will be made available on the Department of Planning, Industry and Environment [website](#).

What has already changed?

On 10 April 2020, strata and tenancy laws changed in relation to short-term rental accommodation.

Owners corporations are now able to adopt by-laws that limit short-term rental accommodation in their strata scheme, by banning it in lots that are not the host's principal place of residence. However, if someone lives in a strata property as their principal place of residence, they will still be able to rent out their home or rooms while they live there, or while they are temporarily away.

Read more about managing short-term rental in strata, on our [By-laws in your strata scheme](#) page.

Residential tenancy laws have been changed to clarify that short-term rental accommodation arrangements of 3 months or less are not covered by the residential tenancy laws.

More information about the new planning laws will be placed on the [Department of Planning, Industry and Environment website](#).

Stay up-to-date

Updates will be made to our website as the changes come in.

Subscribe to our property [e-newsletters](#) for the latest relevant updates:

- **Strata and Community Schemes Updates** – for anyone who owns, lives in, or works in strata
- **The Letterbox** – for tenants, landlords and agents
- **Property Matters** – for property agents

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Where can I find more information?

Specific changes to the laws:

- [Fair Trading Amendment \(Short-term Rental Accommodation\) Act 2018](#)
- [Better Regulation Legislation Amendment Act 2019](#)

- Fair Trading Amendment (Code of Conduct for Short-term Rental Accommodation Industry) Regulation (No 2) 2020 (soon to be published)
- [Code of Conduct for the Short-term Rental Accommodation Industry](#)

[Prev](#) Managing defects in strata schemes

[Next](#) Changes to the residential tenancy laws

<https://www.fairtrading.nsw.gov.au/about-fair-trading/legislation-and-publications/changes-to-legislation/changes-to-short-term-rental-accommodation> 27-10-20

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