



New South Wales

# Fair Trading Amendment (Short-term Rental Accommodation) Bill 2018

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Fair Trading Act 1987* to authorise the regulations to declare a code of conduct applying to participants in the short-term rental accommodation industry,
- (b) to amend the *Strata Schemes Management Act 2015* to allow the by-laws for a strata scheme to prohibit short-term rental accommodation in the case of premises that are not the principal place of residence of the person who is giving the right of occupation.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

## Schedule 1 Amendment of Fair Trading Act 1987

**Schedule 1** inserts proposed Division 4A of Part 4 to make provision for a code of conduct applying to participants in the short-term rental accommodation industry.

Proposed section 54A defines certain terms used in the proposed Division. A *short-term rental accommodation arrangement* means a commercial arrangement for giving a person the right to occupy residential premises or part of residential premises for a period of not more than 3 months at any one time. The regulations may include other arrangements or exclude arrangements from

the definition. The term *short-term rental accommodation industry participant* covers online booking service providers, letting agents, owners of residential premises who enter into short-term rental accommodation arrangements (ie hosts) and persons who reside on premises pursuant to such an arrangement (ie guests). The regulations may also prescribe other persons who facilitate short-term rental accommodation arrangements as industry participants.

Proposed section 54B authorises the regulations to declare a code of conduct to apply to short-term rental accommodation industry participants. The matters to be dealt with by a code include the rights and obligations of short-term rental accommodation industry participants and the setting up of an exclusion register.

Proposed section 54C makes it an offence for a short-term rental accommodation industry participant to contravene a provision of a code of conduct that is identified by the code as an offence provision.

Proposed section 54D authorises a court to order a short-term rental accommodation industry participant to pay a monetary penalty for contravening a provision of a code of conduct that is identified by the code as a civil penalty provision.

Proposed section 54E provides that a code of conduct prevails to the extent of any inconsistency with the conditions of a development consent.

## **Schedule 2      Amendment of Strata Schemes Management Act 2015**

**Schedule 2** allows an owners corporation (by a 75% majority) to make a by-law that prohibits a lot being used for the purposes of a short-term rental accommodation arrangement if the lot is not the principal place of residence of the person who is giving the right of occupation under the arrangement. The amendment also provides that a by-law cannot prevent a lot being used for the purposes of a short-term rental accommodation arrangement if the lot is the principal place of residence of the person who is giving the right of occupation.