

Accommodation Levy Act 1997 No 32

[1997-32]



New South Wales

Status Information

Currency of version

Historical version for 1 January 2000 to 6 July 2003 (accessed 28 May 2024 at 11:48)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Justices Legislation Repeal and Amendment Act 2001 No 121](#) (not commenced — to commence on 7.7.2003)
- **Note**
This Act ceases to have effect on 1.9.2003 — see section 20.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Accommodation Levy Act 1997 No 32



New South Wales

An Act to impose a levy on charges for certain residential accommodation; to amend the [Taxation Administration Act 1996](#); and for other purposes.

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.

club means premises owned or operated by a club that is registered under the [Registered Clubs Act 1976](#).

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.

SOCOG means the Sydney Organising Committee for the Olympic Games constituted by the [Sydney Organising Committee for the Olympic Games Act 1993](#).

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 1A Abolition of accommodation levy on 1 July 2000

5A No levy on accommodation provided on or after 1 July 2000

- (1) This Act does not apply in respect of residential accommodation provided for use or occupation on or after 1 July 2000.
- (2) Accordingly, no levy is charged by this Act for residential accommodation provided for use or occupation on or after that date.
- (3) This section does not affect any liability to pay a levy charged by this Act for residential accommodation provided for use or occupation before 1 July 2000.
- (4) For the purposes of this Act, accommodation provided for overnight use on 30 June 1999 is taken to have been provided before 1 July 2000.

5B Final return

Despite section 14:

- (a) June 2000 is a return period for the purposes of that section, and
- (b) the return date for the return period of June 2000 is 15 July 2000, and
- (c) a return is not required to be lodged with the Chief Commissioner for any period commencing on or after 1 July 2000.

5C Transitional

For the purposes of this Act, any amount paid or payable after 30 June 2000 for residential accommodation provided for use or occupation before 1 July 2000 is taken to have been paid in June 2000. Accordingly, any such amount is to be included in the calculation of the levy for the period of June 2000.

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 Places 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 club,

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 Minister by notice published in the Gazette not to be a place of accommodation for the purposes of this Act.

- (3) The Minister 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

- (1) The amount of the accommodation levy is 10% of the total amount paid or payable for residential accommodation as referred to in section 6, except as provided by this section.
- (2) The amount of the accommodation levy in relation to a place of accommodation that is affected by an Olympic contract is:
 - (a) 5% of the total amount paid or payable for residential accommodation as referred to in section 6 for the period from 1 September 1997 to 31 March 1998 (both dates inclusive), and
 - (b) 7% of the total amount paid or payable for residential accommodation as referred to in section 6 for the period from 1 April 1998 to 31 August 1998 (both dates inclusive).
- (3) For the purposes of this section, a place of accommodation is affected by an Olympic contract if:
 - (a) it is subject to a contract with SOCOG that was entered into on or before 31 December 1997 and by which accommodation is committed to the Games of the XXVII Olympiad in Sydney in the year 2000, or
 - (b) the manager of the place of accommodation was not presented with a contract by SOCOG on or before 31 December 1997 for the purpose of seeking the commitment of accommodation to the Games of the XXVII Olympiad in Sydney in the year 2000.

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

- (1) 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.

- (2) A reasonable amount paid or payable for booking fees or commissions is not an amount paid or payable for residential accommodation for the purposes of this Act.
- (3) An amount paid or payable for residential accommodation provided in a dormitory that has communal or self-catering facilities is not an amount paid or payable for residential accommodation for the purposes of this Act.
- (4) An amount paid or payable for residential accommodation provided under the Homestay or Homehost programs for the Games of the XXVII Olympiad in Sydney in the year 2000 is not an amount paid or payable for residential accommodation for the purposes of this Act.
- (5) An amount paid or payable for residential accommodation provided as overflow accommodation at the request of a welfare organisation is not an amount paid or payable for residential accommodation for the purposes of this Act.

11A Occupation in excess of 28 consecutive days

- (1) If the same natural person occupies the same room within a place of accommodation for a period of consecutive days that exceeds 28 days, no accommodation levy is chargeable on any amount paid or payable for the person's accommodation in that room during that part of that consecutive period that exceeds 28 days.
- (2) This section extends to a period of accommodation that commenced before the commencement of this section.

11B Club accommodation for members

- (1) An amount paid or payable by a member of a club for residential accommodation

provided at the club to the member is not an amount paid or payable for residential accommodation for the purposes of this Act.

- (2) In this section, **member** of a club means a person who is a full member of the club within the meaning of the [Registered Clubs Act 1976](#).

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, on or before each return date specified in the following Table in each year:
- (a) lodge a return with the Chief Commissioner for the return period specified in that Table opposite the return date, and
- (b) pay the amount of accommodation levy required to be paid under this Act for that return period.

Table

Return date	Return period
15 March	December, January, February
15 June	March, April, May
15 September	June, July, August
15 December	September, October, November

(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 (Repealed)

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 Act ceases to have effect on 1 September 2003

- (1) This Act ceases to have effect on 1 September 2003.
- (2) This section does not affect any liability that arises, before 1 September 2003:
 - (a) to pay an accommodation levy required to be paid under this Act, or
 - (b) to lodge a return with the Chief Commissioner.

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 Pyrmont 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 Craigend Street, east along Craigend Street to the intersection of Craigend 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 McMahon'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.