



REPUBLIC OF NAURU

Accommodation Registration Act 2012

Act No. 23 of 2012

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REPUBLIC OF NAURU

Accommodation Registration Act 2012

Act No. 23 of 2012

An Act to regulate accommodation houses, impose a tax on the provision of accommodation when provided for fee or reward and for related purposes.

Certified on 21 December 2012

PART 1 – PRELIMINARY

1 Short title

This Act may be cited as the *Accommodation Registration Act 2012*.

2 Commencement

This Act commences on a date to be fixed by the Minister by Gazette notice.

3 Definitions

In this Act, unless the contrary intention appears:

‘accommodation house’ means a building, or group of buildings in close proximity, in which accommodation is provided for fee or reward but does not include such a building or buildings, or class of building or buildings, prescribed by the regulations;

‘accommodation unit’ means:

- (a) an accommodation house comprised of a single dwelling;
or

- (b) a discrete part of an accommodation house in which accommodation is provided to a particular person for fee or reward;

Examples for definition of 'accommodation unit':

A room or self-contained apartment in a hotel

A flat or apartment

An attached townhouse

A room in a guest house or boarding house

'associate', in relation to a specified person, means:

- (a) a person who is a relative of the specified person or of the specified person's spouse or de facto partner; or
- (b) a person who carries on a business with the specified person; or
- (c) a person who is an employee of the specified person; or
- (d) a person who exerts a material influence over the specified person; or
- (e) a person over whom the specified person exerts a material influence; or
- (f) a person who is a company in relation to which the specified person is a director or shareholder; or
- (g) a person declared by the regulations to be an associate of the specified person.

'bed tax'—see section 13(1);

'category 1 accommodation house' means an accommodation house at which 100 or more persons may be provided with sleeping accommodation at any one time;

'category 2 accommodation house' means an accommodation house at which 50 or more, but less than 100, persons may be provided with sleeping accommodation at any one time;

'category 3 accommodation house' means an accommodation house at which 10 or more, but less than 50,

persons may be provided with sleeping accommodation at any one time;

'category 4 accommodation house' means an accommodation house at which less than 10 persons may be provided with sleeping accommodation at any one time;

'monthly return' means a monthly return required to be submitted to the Secretary under section 12;

'operate', in relation to an accommodation house, means to provide accommodation for fee or reward at the accommodation house;

'operator', of an accommodation house, means a person who provides accommodation for fee or reward at the accommodation house;

'register' means the register of accommodation houses maintained by the Secretary under section 29;

'registered operator', of an accommodation house, means the person specified on the register as the operator of the accommodation house;

'relative', of a specified person, means:

- (a) a person who is related to the specified person by blood or marriage; or
- (b) a person who is a de facto partner of the specified person.

'Secretary' means the head of Department responsible to the Minister for the administration of this Act.

4 Application of Act

This Act applies to accommodation provided for a fee or reward of a value, in relation to each accommodation unit for each night of accommodation, that exceeds the amount prescribed by the Regulations.

PART 2 – REGISTRATION OF ACCOMMODATION HOUSES

5 Requirement for registration of accommodation house

A person must not operate an accommodation house that is not registered under this Act.

Maximum penalty:

- (a) category 1 accommodation house—\$20,000;
- (b) category 2 accommodation house—\$10,000;
- (c) category 3 accommodation house—\$4,000;
- (d) category 4 accommodation house—\$1,000.

6 Application for registration

- (1) The operator of an accommodation house may apply to the Secretary for registration of the accommodation house.
- (2) An application for registration of an accommodation house must:
 - (a) be made in the manner and form prescribed by the Regulations; and
 - (b) be accompanied by the fee prescribed by the Regulations.

7 Registration of accommodation house

- (1) The Secretary must register an accommodation house on application under section 6 unless, in the opinion of the Secretary:
 - (a) the accommodation house is not fit for human habitation; or
 - (b) the person making the application is not a suitable person to be the operator of an accommodation house; or
 - (c) the accommodation house does not comply with any other requirements prescribed by the Regulations.
- (2) An accommodation house is, on registration by the Secretary, registered in the name of the operator for a term of 3 years.

- (3) Before the expiration of a term of registration, the registered operator of an accommodation house may apply in writing to the Secretary for renewal of the registration of the accommodation house.
- (4) An application for the renewal of the registration of an accommodation house must:
 - (a) be made in the manner and form prescribed by the regulations; and
 - (b) be accompanied by the fee prescribed by the regulations.
- (5) The Secretary may, in his or her discretion, grant a late application for renewal of the registration of an accommodation house provided that the applicant pays the late fee prescribed by the Regulations.

8 Conditions of registration

- (1) The registration of an accommodation house is subject to any conditions specified in the certificate of registration by the Secretary.
- (2) Without limiting the conditions that may be specified under subsection (1), the following types of conditions may be specified:
 - (a) that accommodation is not provided for guests in a part of the accommodation house, or a particular accommodation unit, or units, for reasons of health and safety;
 - (b) that remedial work is carried out within a specified period to remove a risk to the health and safety of guests at the accommodation house;
 - (c) limitations on the maximum number of guests that may be provided with accommodation at the accommodation house, including an accommodation unit, at any one time.
- (3) The Secretary may, by notice in writing to the operator of an accommodation house, impose, vary or revoke a condition of registration of an accommodation house.
- (4) Before imposing or varying a condition under subsection (3), the Secretary must give the operator of the accommodation house a reasonable period in which to make submissions to the Secretary in relation to the imposition or variation.

- (5) A person who contravenes a condition of registration of an accommodation house commits an offence.

Maximum penalty: \$1,000.

9 Transfer of registration

- (1) If a person applies to the Secretary to transfer the registration of an accommodation house to the person's name, the Secretary must substitute the name of that person on the register for the name of the registered operator if the Secretary is satisfied that:
- (a) the registered operator has ceased, or is about to cease, being the operator of the accommodation house; and
 - (b) the applicant intends to be the operator of the accommodation house; and
 - (c) the applicant is a suitable person to be the operator of an accommodation house.
- (2) An application under subsection (1) must:
- (a) be made in the manner and form prescribed by the regulations; and
 - (b) be accompanied by the fee prescribed by the regulations.
- (3) A person applying under subsection (1) must not be registered as the registered operator of an accommodation house if:
- (a) the payment of bed tax in relation to the accommodation house is in arrears; and
 - (b) the person is an associate of the registered operator, or former registered operator, of the accommodation house.

10 Notification to Secretary

The registered operator of an accommodation house must, as soon as practicable, notify the Secretary in writing if he or she:

- (a) ceases to be the operator of the accommodation house; or
- (b) is convicted of a criminal offence; or

- (c) any building work or renovation in relation to an accommodation unit, other than general maintenance, has been undertaken at the accommodation house; or
- (d) any other thing prescribed by the regulations exists or occurs in relation to the accommodation house or the operator of the accommodation house.

Maximum penalty: \$1,000.

11 Records

The operator of an accommodation house must keep records as required by the Regulations.

Maximum penalty: \$5,000.

12 Monthly return

- (1) The registered operator of an accommodation house must submit to the Secretary a monthly return in the manner and form required by the Regulations that includes the following information for that month:
 - (a) the number of nights for which accommodation was provided at each accommodation unit;
 - (b) the amount charged for each accommodation unit in respect of each night referred to in paragraph (a);
 - (c) the amount of bed tax that the registered operator is liable to pay.
- (2) The monthly return must be submitted to the Secretary on or before the last day of the month following the month to which the return relates.

PART 3 – BED TAX

13 Bed tax

- (1) The operator of an accommodation house must pay to the Republic an amount (a *'bed tax'*) in relation to accommodation provided by the operator.

- (2) The amount of bed tax is:
 - (a) \$10 per accommodation unit per night; or
 - (b) if a lesser amount is prescribed by the regulations, that amount.
- (3) The bed tax is payable on or before the last day of the month following the month to which the bed tax relates.
- (4) If payment of an amount of bed tax is not made on or before the day on which it is payable:
 - (a) a fine of 10 per cent of the amount outstanding is added to that amount; and
 - (b) for each 6 month period that the amount remains outstanding an additional fine of 10 per cent of the amount outstanding is added.
- (5) The amount of bed tax and any fine added to it is recoverable by the Republic as a debt.
- (6) Bed tax is not payable in relation to:
 - (a) an accommodation house, or accommodation houses of a class, prescribed by the regulations; or
 - (b) accommodation provided to a person, or persons of a class, prescribed by the regulations.

14 Default assessment

- (1) If the operator of an accommodation house has not submitted a monthly return in relation to a particular month in accordance with section 12, the Secretary may make a reasonable estimate of the amount of bed tax that the operator is liable to pay in relation to that month.
- (2) The Secretary must, as soon as practicable after making an estimate under subsection (1) in relation to an accommodation house, give written notice of the estimate to the operator of the accommodation house.

- (3) The operator of an accommodation house for which the Secretary has made an assessment under subsection (1) may, if the operator disagrees with the assessment:
 - (a) submit to the Secretary the relevant monthly report; and
 - (b) request the Secretary to reconsider the assessment taking into account the submitted monthly report.
- (4) If the operator of an accommodation house makes a submission under subsection (2) the Secretary may:
 - (a) if satisfied that the monthly report of the accommodation house submitted by the operator is correct, substitute an amount calculated in accordance with section 13 as the amount of bed tax payable; or
 - (b) in any other case, rely on the default assessment made under subsection (1).

15 Application of revenue

The revenue received from the bed tax must be paid to the Treasury Fund.

PART 4 – ENFORCEMENT

Division 1 – Authorised officers

16 Authorised officers

- (1) The following persons are authorised officers for the purposes of this Act:
 - (a) the Secretary;
 - (b) a police officer;
 - (c) a public officer appointed by the Secretary to be an authorised officer.
- (2) An appointment by the Secretary under subsection (1)(c) may be made subject to conditions specified in the instrument of appointment.

17 Identification of authorised officers

- (1) An authorised officer, other than a police officer, must be issued with an identity card:
 - (a) containing the person's name and a photograph of the person; and
 - (b) stating that the person is an authorised officer for the purposes of this Act.
- (2) If the powers of an authorised officer have been limited under the person's instrument of appointment as an authorised officer, the identity card issued to the authorised officer must contain a statement of the limitation of the officer's powers.
- (3) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise powers under this Act, produce for the inspection of the person:
 - (a) in the case of an authorised officer who is a police officer and is not in uniform, his or her warrant card; or
 - (b) in the case of an authorised officer who is not a police officer, his or her identity card.

18 Powers of authorised officers

An authorised officer may:

- (a) enter and inspect at any reasonable time an accommodation house, or a place that the officer reasonably suspects is an accommodation house, for the purpose of the administration or enforcement of this Act; and
- (b) require a person to produce a document reasonably required in connection with the administration or enforcement of this Act; and
- (c) examine, copy or take extracts from a document produced under paragraph (b) or require a person to provide a copy of any such document; and
- (d) take photographs, films, audio, video or other recordings as reasonably required in connection with the administration or enforcement of this Act.

Division 2 – Suspension, cancellation and closure

19 Suspension and cancellation of registration

- (1) The Secretary may suspend or cancel the registration of an accommodation house if satisfied that:
 - (a) the registered operator is not the operator of the accommodation house; or
 - (b) there is no registered operator of the accommodation house; or
 - (c) a condition of the registration of the accommodation house has been contravened; or
 - (d) the accommodation house is not fit for human habitation; or
 - (e) the accommodation house poses a material risk to the health and safety of guests at the accommodation house; or
 - (f) payment of the bed tax in relation to the accommodation house is more than 3 months in arrears; or
 - (g) the Secretary, in registering the accommodation house, acted on the basis of a material mistake of fact; or
 - (g) the registration of the accommodation house was based on information incorrect in a material particular; or
 - (h) the operator of the accommodation house has contravened this Act.
- (2) The registration of an accommodation house may be suspended:
 - (a) for a specified period of time (not exceeding 3 months); or
 - (b) until specified action is undertaken in relation to the accommodation house.
- (3) The Secretary may cancel the registration of a person as the registered operator if satisfied that, as a result of events occurring after the person became the registered operator, the person is no longer a suitable person to be the operator of an accommodation house.

20 Closure of accommodation house

- (1) If the Secretary is satisfied that a person is operating an accommodation house that is not registered under this Act, the Secretary may, by order in writing, require the person to cease operating the accommodation house until the accommodation house is registered under this Act.
- (2) A person must comply with an order under subsection (1).

Maximum penalty:

- (a) category 1 accommodation house: \$7,000;
- (b) category 2 accommodation house: \$4,000;
- (c) category 3 accommodation house: \$2,000;
- (d) category 4 accommodation house: \$500,

for each day on which the person fails to comply with the order.

Division 3 – Offences

21 Offence by owner of accommodation house

- (1) The owner of a place being operated as an accommodation house by another commits an offence if:
 - (a) the place is not registered as an accommodation house; and
 - (b) the owner knew, or ought reasonably to have known, that the place was operated as an accommodation house while unregistered; and
 - (c) the owner failed to take reasonable steps to prevent the place being operated as an accommodation house while unregistered.

Maximum penalty:

- (a) category 1 accommodation house:\$5,000;
- (b) category 2 accommodation house:\$2,000;
- (c) category 3 accommodation house:\$1,000;

(d) category 4 accommodation house:\$500.

- (2) For subsection 1(c), the owner of an accommodation house will be taken to have taken all reasonable steps to prevent a place being operated as an accommodation house while unregistered if the owner notified the Secretary of the operation of the accommodation house as soon as reasonably practicable after becoming aware that the place was being operated as an accommodation house while unregistered.

22 Providing false or misleading information

A person commits an offence if:

- (a) the person provides information as required under this Act; and
- (b) the information is false or misleading; and
- (c) the person:
 - (i) knows the information is false or misleading; or
 - (ii) is reckless about whether the information is false or misleading.

Maximum penalty: \$2,000.

23 Offences to hinder etc authorised officers

A person must not:

- (a) hinder or obstruct an authorised officer in the exercise of powers conferred under this Act; or
- (b) refuse or fail to comply with a requirement of an authorised officer given under this Act.

Maximum penalty: \$2,000.

24 Offence to impersonate authorised officer

A person who falsely represents, by words or conduct, that he or she is an authorised officer commits an offence.

Maximum penalty: \$1,000.

PART 5 – REVIEW AND APPEAL

25 Reviewable decisions

- (1) A **‘reviewable decision’** is a decision, or a decision to take any action, specified in the Table, column 1.
- (2) An **‘affected person’**, for a reviewable decision, means a person specified opposite the reviewable decision in the Table, column 2.

Table for section 25

Column 1	Column 2
Reviewable decision	Affected person
To not register an accommodation house under section 7(1)	An applicant for registration of the accommodation house
To impose or vary a condition of registration of an accommodation house under section 8	The registered operator of the accommodation house
To not transfer the registration of an accommodation house under section 9	The applicant for the transfer of the registration of the accommodation house
To rely on a default assessment of bed tax under section 14(3)(b)	The registered operator of the accommodation house to which the default assessment applies
To suspend or cancel the registration of an accommodation house under section 19	The registered operator of the accommodation house
A decision made on review under section 27(4)	An affected person for the decision reviewed

26 Notice of reviewable decision

The person who makes a reviewable decision must give each affected person for the decision a notice specifying the following:

- (a) the decision;
- (b) the reasons for the decision;
- (c) if the decision was made by the Secretary:
 - (i) that the person may apply to the Minister for review of the decision; and
 - (ii) that the application must be made within 14 days after receiving the notice;
- (d) if the decision was made by the Minister—that the person may appeal to the Supreme Court against the decision within 28 days after receiving the notice.

27 Review of decision

- (1) An affected person for a reviewable decision made by the Secretary may apply to the Minister for review of the decision.
- (2) The application for review must be made:
 - (a) within 14 days after the affected person receives notice of the decision under section 26; or
 - (b) within a later time decided by the Minister on application by the affected person.
- (3) The application must be in writing and must set out the reasons for the application.
- (4) On application under subsection (1), the Minister may:
 - (a) affirm the decision; or
 - (b) vary the decision; or
 - (c) set aside the decision and substitute a new decision.

28 Appeal against decision

- (1) An affected person for a reviewable decision made by the Minister may appeal against the decision to the Supreme Court.
- (2) The notice of appeal must be filed within 28 days after the affected person receives notice of the decision under section 26.
- (3) The notice of appeal must state fully the grounds on which the appeal is made.
- (4) The appeal does not affect the operation or implementation of the reviewable decision.
- (5) However, the Court may, pending the outcome of the appeal, make an order staying or otherwise affecting the operation or implementation of so much of the reviewable decision as the Court considers appropriate.
- (6) To decide the appeal, the Court must:
 - (a) affirm the decision; or
 - (b) vary the decision; or
 - (c) refer the matter back to the Minister with directions to reconsider the whole or any specified part of the matter.
- (7) The Court in deciding an appeal may give such directions to the Secretary or other person as may be necessary to give effect to the Court's decision.

PART 6 – MISCELLANEOUS

29 Register of accommodation houses

- (1) The Secretary must maintain a register of accommodation houses registered under this Act.
- (2) The register must include the following information in relation to each accommodation house:
 - (a) the name of the operator of the accommodation house;
 - (b) the name of the owner of the accommodation house;
 - (c) the date of expiry of registration;

- (d) the location of the accommodation house;
 - (e) a description of the accommodation house including, if relevant, each accommodation unit;
 - (f) the maximum number of guests that may be provided with accommodation at any one time;
 - (g) any conditions to which the registration of the accommodation house is subject;
 - (h) whether the registration of the accommodation house has at any time been suspended or cancelled and, if so, the reason or reasons for that suspension or cancellation;
 - (i) any other information that the Secretary thinks fit.
- (3) On request made to the Secretary, the register must be made available for inspection by the public at a place nominated by the Secretary for that purpose.

30 Delegation by Secretary

The Secretary may delegate to a person a function or power under this Act.

31 Regulations

- (1) Cabinet may make regulations under this Act.
- (2) The regulations may:
 - (a) be of general application or vary in their application according to prescribed factors; and
 - (b) give the Minister or the Secretary a discretion to decide a matter; and
 - (c) impose a fine, not exceeding \$2,000, for offences against the regulations.

**SCHEDULE 1 - REPEAL OF ACCOMMODATION
REGISTRATION ACT 2006**

The *Accommodation Registration Act 2006* is repealed.