

Public Health and Wellbeing (Prescribed Accommodation) Regulations 2020

Exposure Draft

Part 1—Preliminary

1 Objective

The objective of these Regulations is to prescribe matters required or permitted to be prescribed or necessary to be prescribed to give effect to the prescribed accommodation provisions of the **Public Health and Wellbeing Act 2008**.

2 Authorising provisions

These Regulations are made under sections 232 and 235 of the **Public Health and Wellbeing Act 2008**.

3 Commencement

These Regulations come into operation on 13 December 2020.

4 Revocations

The regulations set out in Schedule 1 are **revoked**.

5 Definitions

In these Regulations—

drinking water has the same meaning as it has in section 3 of the **Safe Drinking Water Act 2003**;

holiday camp means any house, building or structure, whether temporary or permanent, which is used for the accommodation of student groups, youth groups or family groups for holiday or recreational purposes;

hostel means any house, building or structure, whether temporary or permanent, which is used primarily for the accommodation of travellers;

hotel includes a residential hotel and any residential premises in respect of which a general licence or on-premises licence is granted under the **Liquor Control Reform Act 1998**;

residential accommodation means all or part of any house, building, or other structure used as a place of abode where people can live on payment of consideration to the proprietor but does not include—

- (a) a hotel or motel; or
- (b) a hostel; or
- (c) a student dormitory; or
- (d) a holiday camp; or

- (e) a rooming house;

rooming house has the same meaning as it has in section 3(1) of the **Residential Tenancies Act 1997**;

student dormitory means any dormitory, student hostel, hall of residence or residential college for the accommodation of students which is controlled by or operated under an arrangement with or affiliated with—

- (a) an institution providing educational services for children of ***compulsory school age*** within the meaning of section 1.1.3(1) of the **Education and Training Reform Act 2006**; or
- (b) adult, community and further education services; or
- (c) an ***autonomous college*** within the meaning of section 1.1.3(1) of the **Education and Training Reform Act 2006**; or
- (d) an ***adult education institution*** within the meaning of section 1.1.3(1) of the **Education and Training Reform Act 2006**;

temporary crisis accommodation means temporary crisis accommodation provided on a non-profit basis by an agency which receives homelessness support funding from the State;

the Act means the **Public Health and Wellbeing Act 2008**.

Part 2—Prescribed accommodation

Division 1—Scope and registration

6 Prescribed accommodation

Except as provided in regulation 7, the following classes of accommodation are prescribed accommodation for the purposes of section 3(1) of the Act—

- (a) residential accommodation;
- (b) hotels and motels;
- (c) hostels;
- (d) student dormitories;
- (e) holiday camps;
- (f) rooming houses.

7 Accommodation that is not prescribed accommodation

The following classes of accommodation are not prescribed accommodation—

- (a) a house under the exclusive occupation of the occupier;
- (b) a self-contained apartment under the exclusive occupation of the occupier consisting of a suite of rooms that—
 - (i) forms a portion or portions of a building; and
 - (ii) includes kitchen bathroom and toilet facilities; and
 - (iii) forms a self-contained residence;
- (c) temporary crisis accommodation;
- (d) a health or residential service within the meaning of section 3(1) of the **Residential Tenancies Act 1997**;
- (e) a residential care service within the meaning of the Aged Care Act 1997 of the Commonwealth;
- (f) a retirement village within the meaning of section 3(1) of the **Retirement Villages Act 1986**;
- (g) a house, building or structure to which Part 4 of the **Residential Tenancies Act 1997** applies;
- (h) a vessel, vehicle, tent or caravan;
- (i) premises in which, other than the family of the proprietor, not more than 5 people are accommodated, and which is not a rooming house; or
- (j) an SDA enrolled dwelling within the meaning of section 3(1) of the **Residential Tenancies Act 1997**.

8 Applications for registration

For the purpose of section 71(c) of the Act, the prescribed particulars for an application to register prescribed accommodation are—

- (a) a plan of the premises drawn to a scale of not less than 1:100 and showing the proposed use of each room; and
- (b) the date of the application for registration; and
- (c) the name and address of the proprietor; and
- (d) the address of the premises; and
- (e) the date of the registration.

9 Applications for renewal of registration

For the purpose of section 71(c) of the Act, the prescribed particulars for an application to renew the registration of prescribed accommodation are—

- (a) the date of the application for registration; and
- (b) the name and address of the proprietor; and
- (c) the address of the premises; and
- (d) the date of renewal; and
- (e) any conditions on the grant of registration or renewal.

10 Applications for transfer of registration

For the purpose of section 71(c) of the Act, the prescribed particulars for an application to transfer the registration of prescribed accommodation are—

- (a) the date of the application for transfer of registration; and
- (b) the name and address of the proprietor; and
- (c) the address of the premises; and
- (d) the date of proposed transfer of registration; and
- (e) the name and address of the person to whom the registration is transferred; and
- (f) the address of the premises to which the registration is transferred.

Division 2—Standards and requirements for prescribed accommodation

11 Overcrowding in prescribed accommodation

- (1) A proprietor of prescribed accommodation must comply with this regulation in relation to the maximum number of people permitted to be accommodated in each bedroom in the prescribed accommodation.

Penalty: 20 penalty units.

- (2) A proprietor of prescribed accommodation must not permit a room in the prescribed accommodation to be used as a bedroom if it has a floor area of less than 7.5 square metres.

Penalty: 20 penalty units.

- (3) If people are accommodated in prescribed accommodation for a period of more than 31 days, the maximum number of people permitted to occupy a bedroom in respect of the period after the thirty-first day is—

- (a) in the case of a bedroom with a floor area of less than 12 square metres, one person; and
 - (b) in the case of a bedroom with a floor area of 12 square metres or more, 2 people and an additional person for every 4 square metres of floor area that exceeds 12 square metres.
- (4) If people are accommodated in prescribed accommodation, other than a holiday camp, for a period of 31 days or less, the maximum number of people permitted to occupy a bedroom is—
 - (a) in the case of a bedroom with a floor area of less than 10 square metres, 2 people; and
 - (b) in the case of a bedroom with a floor area of 10 square metres or more, 3 people and an additional person for every 2 square metres of floor area that exceeds 10 square metres.
- (5) Subject to subregulation (2), a proprietor of a holiday camp must provide at least 2 square metres of floor area in a bedroom for each person who is accommodated for a period of 31 days or less.
- (6) For the purposes of this regulation—
 - (a) one child under the age of 3 years is not counted as a person; and
 - (b) two children under the age of 3 years are counted as one person; and
 - (c) floor area includes the area occupied by any cupboard or other built-in furniture, fixture or fitting but does not include any area occupied by any bathroom or toilet in, or attached to, the bedroom.

12 Cultural heritage significance exemption

- (1) A proprietor of prescribed accommodation that is a holiday camp is exempted from compliance with regulation 11(2) in relation to a building situated on the premises of the holiday camp if—
 - (a) modification of the building to comply with the minimum bedroom size in regulation 11(2) is determined by the Council to be inappropriate because the modification would compromise the building's cultural heritage significance; and
 - (b) the maximum period for which people are accommodated in the building is 7 nights.
- (2) For the purposes of subregulation (1)(a), a Council may determine a building to be of cultural heritage significance if—
 - (a) the building is subject to a heritage overlay in the planning scheme for which the Council is the responsible authority within the meaning of the **Planning and Environment Act 1987**; or
 - (b) the building is included on the Victorian Heritage Register established under the **Heritage Act 2017**; or

- (c) the building is included on the Commonwealth Heritage List or the National Heritage List kept under the Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth; or
 - (d) the Council has had regard to a heritage study that considers the building.
- (3) In this regulation—
- cultural heritage significance*** has the same meaning as in section 3(1) of the **Heritage Act 2017**;
- heritage study*** means a study or assessment undertaken in accordance with guidelines made by—
- (a) the Department of Environment, Land, Water and Planning and published on its website; or
 - (b) the Heritage Council established under the **Heritage Act 2017**.

13 Maintenance of prescribed accommodation

A proprietor of prescribed accommodation must maintain the prescribed accommodation and all bedrooms, toilets, bathrooms, laundries, kitchens, living rooms and any common areas provided with the accommodation—

- (a) in good working order; and
- (b) in a clean, sanitary and hygienic condition; and
- (c) in a good state of repair.

Penalty: 20 penalty units.

14 Cleanliness of prescribed accommodation

- (1) In addition to the requirement under regulation 13(b), a proprietor of prescribed accommodation must ensure that each bedroom and any toilet or bathroom attached to the bedroom is cleaned after the bedroom is vacated and before its re-use by another occupier.

Penalty: 20 penalty units.

- (2) A proprietor of prescribed accommodation must ensure that all bed linen provided with the accommodation is changed with clean linen—
- (a) at least weekly; and
 - (b) after the accommodation is vacated and before its re-use by another occupier.

Penalty: 20 penalty units.

15 Water supplied to prescribed accommodation

- (1) A proprietor of prescribed accommodation must provide a continuous and adequate supply of water to all toilet, bathing, kitchen, laundry and drinking water facilities.

Penalty: 20 penalty units.

- (2) A proprietor of prescribed accommodation must provide a continuous and adequate supply of hot water to all bathing, laundry and kitchen facilities.

Penalty: 20 penalty units.

16 Drinking water and prescribed accommodation

A proprietor of prescribed accommodation must ensure that drinking water supplied by the proprietor to another person is fit for human consumption if the drinking water was not supplied to the proprietor by a water supplier (within the meaning of section 3 of the **Safe Drinking Water Act 2003**).

Penalty: 20 penalty units.

17 Discharge of sewage and waste water in prescribed accommodation

A proprietor of prescribed accommodation must ensure that all sewage and waste water is discharged—

- (a) to a reticulated sewerage system; or
- (b) to a wastewater treatment system permitted under the **Environment Protection Act 1970**.

Penalty: 20 penalty units.

18 Refuse receptacles and prescribed accommodation

A proprietor of prescribed accommodation must—

- (a) provide sufficient vermin-proof receptacles at the prescribed accommodation for the collection and storage of all rubbish; and
- (b) ensure that the receptacles are regularly cleaned.

Penalty: 20 penalty units.

19 Refuse disposal and prescribed accommodation

A proprietor of prescribed accommodation must ensure that all refuse at the accommodation is regularly removed by means of a refuse collection service provided by the Council or a private contractor engaged by the proprietor.

Penalty: 20 penalty units.

20 Toilet and bathing facilities in prescribed accommodation

A proprietor of prescribed accommodation must provide at least one toilet, one bath or shower and one wash basin for every 10 people or fraction of that number of people occupying the accommodation.

Penalty: 20 penalty units.

21 Register of occupants of prescribed accommodation

- (1) A proprietor of prescribed accommodation must keep a register recording—
 - (a) the names and addresses of people occupying the accommodation; and
 - (b) the dates of their arrival and departure.

Penalty: 20 penalty units.

- (2) A proprietor is exempted from compliance with subregulation (1) if the proprietor is required under any other Act or regulation to keep a similar register.
- (3) The proprietor must retain the register referred to in subregulation (1) or (2) for at least 12 months after the date of the last entry in the register.

Penalty: 20 penalty units.

22 Advertising and prescribed accommodation

A proprietor of prescribed accommodation must not state or cause to be stated in any advertisement, notice or sign published or put up in relation to the accommodation, that the premises were registered or approved for any class of accommodation other than that set out on the certificate of registration.

Penalty: 20 penalty units.

Division 3—Prescribed conditions

23 Prescribed conditions

For the purposes of section 75(1)(c) of the Act, it is a condition on the registration of all prescribed accommodation that proprietors required to keep a register under regulation 21(1) must take all reasonable steps to protect the information in the register.

Part 3—Infringements

24 Infringements

- (1) For the purposes of section 209 of the Act, offences against the following provisions are prescribed offences for which an infringement notice may be served—
 - (a) section 67 of the Act;
 - (b) regulation 11(2);
 - (c) regulation 15(1);
 - (d) regulation 20;
 - (e) regulation 22.
- (2) For the purposes of section 209(4) of the Act—
 - (a) the infringement penalty prescribed in respect of the prescribed offence under subregulation (1)(a) is—
 - (i) in the case of a natural person, 4 penalty units; and
 - (ii) in the case of a body corporate, 10 penalty units; and
 - (b) the infringement penalty prescribed in respect of a prescribed offence under subregulation (1)(b), (c), (d) or (e) is 4 penalty units.

Schedule 1—Revocation of Regulations

Regulation 4

1. Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009, S.R. No 178/2009.
2. Public Health and Wellbeing Amendment Regulations 2011, S.R. No. 57/2011.
3. Public Health and Wellbeing Further Amendment Regulations 2011, S.R. No.72/2011.
4. Public Health and Wellbeing Amendment Regulations 2013, S.R. No.109/2013.
5. Public Health and Wellbeing Amendment (Prescribed Accommodation) Regulations 2013, S.R. No.137/2013.
6. Public Health and Wellbeing Amendment (Immunisation Services) Regulations 2013, S.R. No.143/2013.
7. Public Health and Wellbeing Amendment (No Jab, No Play) Regulations 2015, S.R. No.170/2015.
8. Public Health and Wellbeing Amendment Regulations 2016, S.R. No. 3/2016.
9. Public Health and Wellbeing Amendment (Registered Premises) Regulations 2016, S.R. No. 58/2016.
10. Public Health and Wellbeing Amendment Regulations 2017, S.R. No. 53/2017.
11. Public Health and Wellbeing Amendment Regulations 2018, S.R. No. 99/2018.
12. Public Health and Wellbeing Further Amendment Regulations 2018, S.R. No. 148/2018.
13. Public Health and Wellbeing Amendment Regulations 2019, S.R. No. 47/2019.

ENDNOTES