

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5185 GIBRALTAR Thursday 31st October 2024

B. 30/24

BILL

FOR

AN ACT to amend the Register of Property Occupation Act 2021.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Register of Property Occupation (Amendment) Act 2024.

Commencement.

2. This Act comes into operation on the day the Minister appoints by notice in the Gazette.

Amendment of the Register of Property Occupation Act 2021.

3. The Register of Property Occupation Act 2021 is amended in accordance with the provisions of this Act.

Insertion of Parts.

4. The heading “PART 1- Register of Property Occupation” is inserted above section 1 and “Short Title”.

5. In section 15, in paragraph (e), the “.” is replaced with “;” and the following is inserted immediately thereafter-

“(f) designated periods for a short-term rental accommodation service;

(g) the form of advertising of short-term rental property;

(h) host availability in respect of short-term rental property;

(i) insurance, health and safety and other requirements in respect of short-term rental property;

(j) the form of notification to the Registrar in respect of short-term accommodation rental service;

- (k) the documents to be supplied to the Registrar in support of notification in the Register;
 - (l) any fees payable in connection with notifications to the Registrar in respect of short-term accommodation rental service and time periods in respect thereof;
 - (m) the form of return and information to be furnished in respect thereof;
 - (n) the change in return date.”.
6. In section 16(1) replace the word “Act” with “Part”.
7. After section 18, the following new part is inserted-

**“PART 2
SHORT TERM RENTAL ACCOMMODATION**

Interpretation of Part 2.

19.(1) In this Part, unless the context otherwise requires-

“accommodation” includes the whole or any part of a premises;

“business purposes” means a temporary activity as an employed or self- employed person, which is limited in time and which is related to the business interests of the employer or, in the case of a self-employed person, the person concerned, including attending business meetings;

“guest” means a natural person who is hosted in a short-term rental property;

“host” means a natural or legal person who-

- (a) is the owner or person who otherwise exercises control over the occupation and use of the short-term rental property; and
- (b) provides a short-term accommodation rental service in respect of the short-term rental property;

“online short-term rental platform” means an online platform that allows guests to conclude distance contracts with hosts for the provision of short-term accommodation rental services;

“prescribed” shall have the same meaning as in Part I of this Act;

“registration number” means a unique number which is assigned to a short-term rental property upon a successful notification to the Registrar pursuant to section 20;

“return date” means any date as may be prescribed;

“short-term accommodation rental service” means the short-term letting of accommodation, whether through an online short-term rental platform or other means and in respect of which all of the following criteria are met-

- (a) the short-term rental accommodation service is entered for monetary payment or any form of consideration;
- (b) the guest does not use the accommodation as their only or principal home;
- (c) the guest is not sharing the accommodation with the host for the principal purpose of advancing the guest’s education as part of an arrangement made or approved by a school, college, or further or higher educational institution;
- (d) the short-term rental accommodation service is being provided exclusively for tourism or business purposes; and
- (e) the short-term rental accommodation service is not being provided for a period exceeding 30 days per stay.

“short-term rental property” means accommodation located in Gibraltar that is the subject of the provision of a short-term accommodation rental service;

“tourism purposes” means activities connected with a trip taken by a person outside his or her habitual residence aimed at satisfying his or her needs for sightseeing, leisure or recreation.

- (2) Where the short-term rental property is rented to more than one person, references in this Part to the guest are to any one of those persons.
- (3) Where an agent is authorised on a host’s behalf to deal with a short-term rental property, the agent shall be considered the host for the purposes of this Part.

Application.

20.(1) Subject to section 27, this Part applies to all short-term rental property in Gibraltar.

(2) A host who provides a short-term accommodation rental service shall notify the Registrar in the prescribed manner and provide such details as may be prescribed.

(3) Accommodation which becomes short-term rental property after the commencement of this Part, shall be notified by a host to the Registrar prior to the commencement (including the advertisement) of the short-term accommodation rental service.

(4) Accommodation which was short-term rental property prior to the commencement of this Part, shall be notified by a host to the Registrar within three months from the commencement of this Part.

(5) The provisions of the Landlord and Tenant Act shall not apply to this Part.

Powers of the Registrar under this Part.

21.(1) The Registrar shall consider notifications made under section 20 for inclusion in the Register.

(2) The Registrar may –

- (a) approve a notification;
- (b) approve a notification on a temporary basis;
- (c) approve a notification (whether temporary or not) subject to conditions;
- (d) reject a notification and set out reasons for refusal;
- (e) require further information from the host before approving or rejecting a notification;

(3) If the Registrar refuses a notification, he or she shall give notice of his or her decision to the host in writing and this may be done by electronic means.

(4) If the Registrar rejects a notification, the applicant may appeal under section 14.

(5) If the Registrar approves a notification, he or she shall enter the details of the short-term rental property in the Register together with the name of the host and any other particulars which may be prescribed.

(6) As soon as is reasonably practicable after approving the notification of the short-term rental property in the Register, the Registrar shall issue a registration number for the relevant property to the host.

Change in status of short-term rental property.

22.(1) Where in respect of a notification of a short-term rental property made under this Part–

- (a) the short-term rental property ceases to be short-term rental property for the purposes of this Part; or
- (b) the identity of the host changes,

the host in the case of subsection (a) or the incoming host in the case of subsection (b) shall within one month commencing on the date of the change, notify the Registrar in the prescribed manner.

(2) On notification of the change pursuant to subsection (1), the Registrar may exercise the powers contained in section 21.

Failure to notify the Registrar.

23.(1) A host who-

- (a) fails to comply with the requirements of section 20; or
- (b) for the purposes of or in connection with the notification of the details of the short-term rental property or having been required under sections 21 or 22 to provide information, knowingly provides false information,

is guilty of an offence and is liable on summary conviction to a fine up to level 4 on the standard scale.

(2) Notwithstanding subsection (1), the Registrar may, without notice, remove the relevant property from the Register if the host has failed to comply with the requirements of section 20 or knowingly provided false information.

Return.

24.(1) Every host to which this Part applies shall deliver to the Registrar successive returns each of which shall be made up to a date not later than the return date.

(2) Each return shall be in a form prescribed and shall contain-

- (a) the number of guests that were hosted in the short-term rental property for the period since the last return date or since the date of the notification to the Registrar, as the case may be;
- (b) details on the length of stay of each of the guests in the short-term rental property; and
- (c) total revenue received by the host from the guests.

and any other information which may be prescribed.

(3) If default is made in complying with this section or the host has knowingly provided false information, the host shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale and for continued contravention, to a monthly fine not exceeding level 1 on the standard scale.

Exchange of Information.

25. The Registrar may furnish the Commissioner appointed under the Income Tax Act and other Government departments, with information held on the Register and in the return.

Sustainable Tourism Fee.

26. For the avoidance of doubt, paragraph 15 of Part V of the Schedule to the Licensing and Fees Act shall apply to this Part.

Power to exempt.

27.(1) The Minister may if he or she is of the opinion that it is necessary in the public interest of Gibraltar, exempt in writing any person, category of persons or short-term rental property from complying with the requirements contained in this Part.

(2) For the purposes of subsection (1), “public interest” includes, but is not limited to –

- (a) the interests of the security of Gibraltar;
- (b) the protection of the security of any premises or property;
- (c) safeguarding confidential information; or
- (d) international events being held in Gibraltar.”.

EXPLANATORY MEMORANDUM

This Bill amends the Register of Property Occupation Act 2021 to regulate short-term letting in Gibraltar, whether through an online short-term rental platform or other means and for connected purposes in respect thereof.

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