

**LOCAL LAW No. 14**  
**(RENTAL ACCOMMODATION) 2000**

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## PART 1 – PRELIMINARY

### Short Title

1. This local law may be cited as Warwick Shire Council Local Law No. 14 (Rental Accommodation).

### Repeal of Previous Local Law

2. This Local Law repeals the following existing local laws:
  - (a) Local Law No. 9 (Application of Continuing Local Laws)
  - (b) Local Law No. 14 (Rental Accommodation with Shared Facilities).

### Object

3.
  - (1) The object of this local law is to ensure that short and long term rental accommodation within the Area provides high standards of public health and safety for human habitation.
  - (2) This local law specifies requirements in addition to requirements specified by other relevant local laws.

### Definitions

4. In this local law-

“**Act**” means the *Local Government Act 1993*;

“**Area**” means the area of the Shire of Warwick

“**authorised person**” means –

- (a) the Chief Executive Officer; and
- (b) a person authorised by the Local Government to exercise the powers of an authorised person under this local law;

“**Chief Executive Officer**” means the Local Government’s Chief Executive Officer;

“**compliance notice**” – see section 18.(1) of this local law;

“**Local Government**” means Council of the Shire of Warwick

“**operator**” in respect of any rental accommodation premises means:-

- (a) where there is a permit under this local law in respect of those premises:-
  - (A) the holder of that permit;
  - (B) if the holder has ceased providing accommodation at those premises, or transferred the holder’s interest in those premises to another person, and has failed to notify the Local Government under section 15 of this local law, the term includes that holder and

- i. where there is a lessee of the premises engaged in the business of providing accommodation at those premises, that lessee
  - ii. where there is no such lessee, the owner of the premises
- (b) where there is no permit under this local law in respect of those premises
- (i) where there is a lessee of the premises engaged in the business of providing accommodation at those premises, that lessee
  - (ii) where there is no such lessee, the owner of the premises

**“rental accommodation premises”** means the following types of premises at which accommodation is provided for payment

- (a) backpacker accommodation;
- (b) bed and breakfast;
- (c) flat;
- (d) hostel;
- (e) hotel providing residential accommodation;
- (f) motel;
- (g) serviced room or apartment

and any other types of premises prescribed as rental accommodation premises by a subordinate local law

**“stop order”** see section 17 of this local law;

**“summary prohibition notice”** see section 21 of this local law.

## **Application of this Local Law**

### **5.**

- (1) This local law applies to all rental accommodation premises provided for payment within the Area.
- (2) This local law does not apply to rental accommodation premises excluded from the application of this local law under a subordinate local law.

## **PART 2 – PERMITS**

### **Requirement for a Permit**

### **6.**

- (1) An operator of rental accommodation premises within the Area who does not hold a current permit in respect of those premises under this Part is guilty of an offence under this local law.

Maximum penalty – 100 penalty units.

## **Application for a Permit**

### **7.**

- (1) An application for a permit must include or be accompanied by –
  - (a) a plan of the premises; and
  - (b) any prescribed fee; and
  - (c) any information and documents required under a subordinate local law.
  
- (2) An applicant for a permit must be:-
  - (a) an operator; or
  - (b) a person who:-
    - (i) has contracted to purchase the premises, or to purchase a business conducted at the premises or a right to use the premises; and
    - (ii) who will be an operator on completion of the purchase.
  
- (3) If an applicant for a permit is not the owner of the premises for which the application is made, the application must be accompanied by the written consent of the owner.

## **Grant of a Permit**

### **8.**

- (1) The local government may grant a permit authorising the holder of the permit to provide rental accommodation premises at specified premises if satisfied that –
  - (a) the premises can be lawfully used for rental accommodation premises; and
  - (b) the premises can be used for providing the accommodation without significant risk to health or safety; and
  - (c) the use of the premises for providing the accommodation is consistent with the provisions of relevant subordinate local laws.

#### *Examples:*

- (i) *Under paragraph (a) the local government would, for example, need to be satisfied that the premises may lawfully be used for the purpose of providing accommodation on a commercial basis under the Integrated Planning Act 1997.*
  
- (ii) *Under paragraph (b) the local government would, for example, need to be satisfied that the premises are free from fire hazards and comply with relevant laws about fire safety.*

## **Particular Requirements May be Specified by Subordinate Local Law**

### **9.**

- (1) The local government may, under a subordinate local law:-
  - (a) specify requirements with which –
    - (i) rental accommodation premises, or a particular class of rental accommodation premises; and
    - (ii) operators of rental accommodation premises, or a particular class of rental accommodation premises; and
    - (iii) particular classes of premises,  
must comply; and
  - (b) provide for the exemption from the relevant requirements if there are adequate reasons for the exemption in a particular case.
- (2) The local government may by resolution prescribe fees for a permit and for renewal of a permit under this local law.

## **Compliance with Subordinate Local Law Requirements**

- 10.** An operator of rental accommodation premises must ensure that requirements for that type of premises specified under a subordinate local law are complied with (whether or not the operator is the holder of a permit).

Maximum penalty – 40 penalty units.

## **Term of a Permit**

### **11.**

- (1) Subject to section 11 (4) a permit takes effect from the date of its grant and remains continuously in force until –
  - (a) thirty (30) days after the date of notice to the operator under section 11.(2) of this local law, unless the fee for renewal of a permit is paid on or before that day; or
  - (b) the holder of a permit in respect of particular rental accommodation premises ceases to be an operator of those rental accommodation premises; or
  - (c) the permit is otherwise cancelled under a provision of this local law.
- (2) The Local Government must, in each year, give notice to the holders of permits under this local law, of the fee for renewal of permits under this local law for that year.

- (3) If a person to whom notice is given under section 11.(2) of this local law fails to pay the fee for renewal of a permit within thirty (30) days after the date of the notice, but the local government subsequently accepts the fee, the permit is revived from the date it would otherwise have expired, despite section 11 ( 1) (a) of this local law.
- (4) The Local Government may, by subordinate local law, prescribe particular rental accommodation premises or particular types of rental accommodation premises which do not require renewal of a permit under this section.

### **Conditions of a Permit**

#### **12.**

- (1) A permit may be granted on conditions the Local Government considers appropriate.
- (2) The conditions of a permit may, for example –
  - (a) limit the number of persons for whom accommodation may be provided in the premises, or a specified part of the premises;  
*Example: The permit, might, for example, provide that a dormitory or bedroom is not to contain more than a specified number of beds.*
  - (b) require that specified modifications , or other specified building work related to the premises, be carried out within a specified period;
  - (c) require the regular maintenance of the premises (including internal and external paintwork);
  - (d) require that specific provision be made for electrical fire and safety;
  - (e) require the provision and maintenance of specified facilities;
  - (f) require the provision and maintenance of specified furniture and equipment;
  - (g) require the regular cleaning of the premises;
  - (h) require fumigation or other treatment of the premises to keep the premises free of vermin and insects;
  - (i) if relevant to the type of accommodation provided – require the regular provision of clean linen and towels;
  - (j) require the provision of services of specified kinds (for example, the safe custody of valuables) for the persons using the accommodation;
  - (k) require that the operator or a representative of the operator approved by the local Government reside on the premises; and
  - (l) require the operator to keep specified records.
- (3) The Local Government may, by subordinate local law, prescribe conditions that must be imposed on a permit or that will ordinarily be imposed on a permit.

### **Compliance with Conditions of a Permit**

- 13.** An operator of rental accommodation premises must ensure that the conditions of the permit in respect of those premises are complied with (whether or not the operator is the holder of the permit).

Maximum penalty – 40 penalty units.

### **Power to Change Conditions of a Permit**

**14.**

- (1) The Local Government may, by written notice given to the holder of a permit, change the conditions of the permit.
- (2) The Local Government may only change conditions of a permit in accordance with this section if –
- (a) the holder agrees to the proposed change; or
  - (b) The Local Government –
    - (i) has given the holder reasonable written notice of the proposed change, inviting that person to make written representations about the proposed change within a reasonable period fixed in the notice; and
    - (ii) if the holder makes written representations within the time allowed in the notice – has taken the representations into account.

### **Transfer and Ceasing to Provide Accommodation**

**15.**

- (1) A person who holds a permit under this local law, and who:-
- (a) transfers that person's interest as an operator in the premises, or
  - (b) otherwise ceases to provide rental accommodation premises
- must notify the Local Government in writing of the relevant fact within seven (7) days of so transferring or ceasing to provide rental accommodation premises.

Maximum Penalty – 20 Penalty units.

- (2) A notice of a transfer must include the following information:-
- (a) the transferee's name, and address
  - (b) the premises concerned
  - (c) the date of the transfer
  - (d) the transferee's signed consent to a transfer of the permit under this local law in respect of the premises concerned;
  - (e) such other information as may be prescribed by a subordinate local law

- (3) The local Government must record any notice of transfer given in accordance with this local law.
- (4) On recording a notice of transfer the transferee becomes the holder of the permit concerned so far as it applies to the premises concerned.

### **PART 3 – ENFORCEMENT**

#### **Inspection of Premises**

##### **16.**

- (1) An authorised person may inspect rental accommodation premises to find out whether –
  - (a) the requirements of this local law and relevant subordinate local law; and
  - (b) the conditions of a permit;are being complied with.
- (2) An authorised person may require a person apparently in charge of the rental accommodation premises to produce for inspection records that are required under this local law or a subordinate local law.
- (3) A person must not refuse or fail to comply with a requirement under section 16.(2) of this local law.

Maximum penalty – 50 penalty units.

#### **Stop Orders**

##### **17.**

- (1) If a person provides rental accommodation premises without holding a permit under this local law, an authorised person may, by written notice given to the person (a “**stop order**”), order the person to stop providing the accommodation.
- (2) A person against whom a stop order is made must comply with that stop order.

Maximum penalty – 100 penalty units.

- (3) However, if a person against whom a stop order is made undertakes to make an application for a permit as soon as practicable, the authorised person may suspend the stop order to give the person a reasonable opportunity to apply for and obtain a permit.

#### **Compliance Notices**

##### **18.**

- (1) If an operator contravenes a provision of this local law or a condition of a permit, under this local law which applies to any premises an authorised person may give to that operator written notice (a “**compliance notice**”) in respect of those premises under this section.

- (2) A compliance notice may:–
- (a) if the contravention is of a continuing or recurrent nature – require the operator to stop the contravention; and
  - (b) whether or not the contravention is of a continuing or recurrent nature – require the operator to take specified action, within a time frame specified in the notice, to remedy the contravention.
- (3) A person to whom a compliance notice is given must comply with the notice.

Maximum penalty – 100 penalty units.

### **Suspension or Cancellation of Permit**

#### **19.**

- (1) If an operator fails to remedy a contravention of this local law or a condition of a permit within the time allowed in a compliance notice, the Local Government may, by written notice given to the operator, suspend or cancel the permit.
- (2) However, before suspending or canceling a permit, the Local Government must:
  - (a) give written notice to the operator of the proposed suspension or cancellation; and
  - (b) allow the operator a reasonable period stated in the notice to make written representations to the Local Government about the proposed suspension or cancellation; and
  - (c) consider representations made in response to the notice.

### **Local Government's Power to Have Work Carried Out**

- 20.** If an operator fails to have work required by a compliance notice carried out, the Local Government may itself have the work carried out.

### **Summary Prohibition Notice**

#### **21.**

- (1) If, in the Local Government's opinion, it is urgently necessary to stop the use of premises as rental accommodation premises because of a serious risk to health or safety or a serious nuisance to neighbouring properties, the Local Government may, by written notice (a "**summary prohibition notice**") given to the operator, prohibit use of the premises as rental accommodation premises.
- (2) If a permit was in force for the premises under a local law, a summary prohibition notice issued under this section suspends the operation of the permit so long as the summary prohibition notice remains in force.
- (3) A person to whom the Local Government has given a summary prohibition notice under this section must not provide rental accommodation premises while the summary prohibition notice remains in force.

Maximum penalty – 200 penalty units.

- (4) A summary prohibition notice remains in force until revoked by the Local Government.

### **Authorised Persons**

22. A local government may appoint a person as an authorised person under this part only if
- (a) the local government considers the person has the necessary expertise or experience for the appointment; or
  - (b) the person has satisfactorily finished training approved by the local government for the appointment.

## **PART 4 – PARTICULAR OFFENCES AND RELATED MATTERS**

### **Misdescription of Premises**

23. A person who does not have a permit under this local law must not:-
- (a) display on rental accommodation premises to which this local law applies any sign or notice indicating that a permit has been granted under this local law; or
  - (b) in any manner or by any means suggest that a permit has been issued under this local law.

Maximum penalty – 20 penalty units.

### **Passageways etc Must be Kept Clear**

24. An operator of rental accommodation premises must ensure that no furniture, fitting or other matter or thing is placed on or in a:-
- (a) stairway;
  - (b) stair landing;
  - (c) fire escape;
  - (d) window;
  - (e) passageway;
  - (f) other area intended for common use; or
  - (g) fire installation,

within the premises so as to obstruct the free passage of persons occupying or using the premises.

Maximum penalty – 100 penalty units.

## Effect of Certain Convictions

### 25.

- (1) This section applies if a person is found guilty of three (3) or more offences against any provision of this local law committed within a period of two (2) years.
- (2) Any permit, held by that person under this local law or in relation to rental accommodation premises (including, but not limited to, rental accommodation premises to which the offences relate) for which that person is or was an operator, is cancelled:-
  - (a) if the person appeals against the third conviction – on the appeal being dismissed, struck out or discontinued; or
  - (b) if the person does not appeal against the third conviction – at the end of the time fixed by law within which an appeal must be started.
- (3) The person is not entitled to apply for a permit in relation to any rental accommodation premises under this law for a period of two years following the cancellation.
- (4) Further, the person must not be an operator of rental accommodation premises for a period of two (2) years following the cancellation.
- (5) However, a Court may, by order, direct that this section:-
  - (a) does not apply to a person; or
  - (b) applies to a person only in relation to particular rental accommodation premises,if the Court is satisfied that it would be just to give the direction.

## Defences

26. It is a defence to any breach or non-compliance of any provision contained in this local law if a person has a reasonable and lawful excuse.

## PART 5 – REVIEW

### Reviewable Decisions

#### 27.

- (1) This section applies to a decision of the local government or an authorised person made under a local law that makes no provision for the review of decisions made under the local law.
- (2) A decision of the local government or an authorised person under the local law is reviewable unless it is –
  - (a) a decision made by resolution of the local government; or
  - (b) a decision to dispose of goods that has been implemented; or
  - (c) a decision made on an earlier application under section 28.

### **Application for Review**

**28.**

- (1) A person who is aggrieved by a reviewable decision may apply to the local government for a review of the decision.
- (2) An application for review of a decision must –
  - (a) be in writing; and
  - (b) state the reasons why the applicant considers the decision should be reviewed; and
  - (c) be lodged at the office of the local government within 28 days after the day on which notice of the decision was given to the applicant or within a further period allowed by the local government (before or after the end of that period).

### **Carrying out Review**

**29.**

- (1) The local government must either –
  - (a) carry out a review at a meeting of the local government; or
  - (b) have the review carried out by an authorised person.
- (2) An authorised person who carries out a review under subsection (1)(b) must not be the original decision maker and must be a person who is no less senior than the original decision maker.

### **Decision on Review**

**30.**

- (1) On completing a review, the local government may confirm, vary or reverse the decision under review.
- (2) The local government must give the applicant written notice of the result of the review.
- (3) If the local government does not decide an application for review within 28 days after receiving the application, the local government is taken to have confirmed the decision under review.

## **PART 6 – SUBORDINATE LOCAL LAWS**

### **Subordinate Local Laws**

- 31.** The Local Government may make subordinate local laws in relation to those matters about which this local law specifically allows for the making of subordinate local laws.