

# GOLD COAST CITY COUNCIL



LOCAL LAW NO. 8

(RENTAL ACCOMMODATION)

REPEALED (GAZETTE 19/12/08)

**GOLD COAST CITY COUNCIL  
LOCAL LAW NO 8  
(RENTAL ACCOMMODATION)**

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## GOLD COAST CITY COUNCIL

### LOCAL LAW NO. 8 (RENTAL ACCOMMODATION)

#### PART 1 - PRELIMINARY

##### Citation

1. This local law may be cited as *Gold Coast City Council Local Law No. 8 (Rental Accommodation)*.

##### Objects

2. (1) The object of this local law is to ensure that short and long term rental accommodation 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 laws<sup>1</sup>.
- (3) However, this local law must be read and construed so as not to exceed the Council's legislative power<sup>2</sup>.

##### Definitions

3. In this local law-

“**accommodation**” to which this local law applies - see section 4.

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

“**authorised person**” means a person authorised by the Council to exercise the powers of an authorised person under this local law.

“**bed**” includes a bunk and folding bed, or lounge used as a bed.

“**compliance notice**” - see section 15(1).

“**operator**” means a person who provides accommodation to which this local law applies (whether as a business or not) and includes:-

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<sup>1</sup> Such as, without being exhaustive, the Council's town planning scheme, the conditions of any relevant town planning approval, the *Building Act 1975*, the *Building Fire Safety Regulation 1991* and any other relevant laws.

<sup>2</sup> For example, section 6 of the *Building Act 1975* states that the *Standard Building Law* is a complete code in relation to matters with which that law deals, so that this law must be read down to the extent that it would otherwise empower the Council to impose requirements in relation to such matters.

- (a) a person who makes the application for registration of premises;
- (b) in any other case, a person who is the owner or who is the agent for the principal or the person who;
  - (i) appears to have effective management and control of premises, or
  - (ii) allocates accommodation to, or receives any payment from, a person who is accommodated at premises;
  - (iii) receives or is entitled to share in the rents or profits of premises; or
  - (iv) resides at premises pursuant to a requirement under a local law policy or under the condition of registration of the premises.
- (c) a person who is entitled to share in the rents or profits of premises; and
- (d) a person who resides at premises pursuant to a requirement under a local law policy or under the conditions of registration of the premises.

**“premises”** means premises at which accommodation to which this local law applies is, or is to be, provided.

*Examples (subject to section 4): motels; hotels providing residential accommodation; serviced rooms or apartments; hostels; backpacker inns; bed and breakfast premises; flats; residential dwellings (whether single unit dwelling houses, duplexes, attached housing; building unit lots; group title lots or any other form of residence).*

**“sleeping room”** includes any bedroom, dormitory, room or place where sleeping accommodation is provided.

#### **Application of law**

- 4. (1) Subject to subsection (2), this local law applies to all accommodation provided for payment at premises within the area-other than employer provided accommodation.
- (2) However, this local law does not apply to accommodation in premises excluded from the application of this local law under a local law policy.

## **PART 2 - REGISTRATION OF PREMISES**

#### **Requirement for registration**

- 5. A person must not provide accommodation to which this local law applies at premises within the area unless the premises are registered under this Part.

Maximum penalty-100 penalty units.

#### **Application for registration**

- 6. (1) An application for registration must include or be accompanied by the information and documents required under a local law policy.

- (2) An applicant for registration 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) will be an operator on completion of the purchase.
- (3) If an applicant for registration 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.

### **Registration**

7. (1) The Council may grant registration if satisfied that-
- (a) the premises can be lawfully used to provide the accommodation<sup>3</sup>; and
  - (b) the use of the premises for providing the accommodation is consistent with the provisions of relevant local law policies.
- (2) In determining whether to grant registration, the Council is not obliged to look beyond:-
- (a) the application for registration and accompanying documents; and
  - (b) other information about the premises (if any) actually in the Council's possession.
- (3) Upon granting registration, the Council must give a certificate of registration to the applicant.

### **Particular requirements may be specified by local law policy**

8. The Council may, under a local law policy-
- (a) specify requirements with which:-
    - (i) accommodation to which this local law applies, or a particular class of accommodation to which this local law applies; and/or
    - (ii) operators of accommodation to which this local law applies, or a particular class of accommodation to which this local law applies; and/or

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<sup>3</sup> This will involve consideration of the town planning scheme, the extent of compliance with conditions of any relevant town planning approval and relevant provisions of other local laws, the *Building Act 1975.*, the *Building Fire Safety Regulation 1991* and any other relevant legislation.

- (iii) persons on premises or particular classes of premises,  
must comply; and
- (b) provide for exemption from the relevant requirements if there are adequate reasons for the exemption in a particular case.

### **Compliance with policy requirements**

9. (1) Subject to subsection (2), an operator must ensure that requirements specified under a local law policy are complied with (whether or not the operator is the applicant for registration<sup>4</sup>).

Maximum penalty - 40 penalty units

- (2) If a requirement under a local law provides for a person other than an operator to do or refrain from doing anything<sup>5</sup> :-
  - (a) a person to whom the requirement applies must comply with that requirement; and
  - (b) the operator must ensure that a person to whom the requirement applies complies with the requirement; and
  - (c) if a person to whom the requirement applies does not comply with the requirement when requested by the operator so to do, the operator must direct the person to leave the premises; and
  - (d) a person must not refuse or fail to comply with a direction under subsection (2)(c).

Maximum penalty for each of (a), (b), (c) and (d) - 40 penalty units.

- (3) Subsections (2)(c) and (2)(d) apply despite any contract relating to accommodation that would otherwise entitle a person to remain upon the premises.

### **Period of registration**

10. (1) Registration takes effect on the date of grant of registration and expires:-
- (a) on the date specified in a local law policy as the expiration date for registration under this local law (**the expiration date**); or
  - (b) when the applicant for registration ceases to be an operator of the rental accommodation,

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<sup>4</sup> The applicant must be an operator, but other persons (eg a non-resident owner) may also be an operator as defined in s 3.

<sup>5</sup> For example, a local law policy may specify that smoking is prohibited in the whole or specified parts of premises

whichever first occurs.

- (2) Except where subsection (1)(b) applies, the Council may on application by the operator (made before or after the expiration date), renew registration for a further term of 12 months commencing on the day after the expiration date.
- (3) Requirements for an application for renewal under subsection (2) may be specified by local law policy.

### Conditions of registration

11. (1) Registration may be granted on conditions the Council considers appropriate.
- (2) The conditions of registration 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;
  - (b) limit the number of beds which may be provided in the premises or a specified part of the premises;
  - (c) require that specified modifications or alterations for health or amenity reasons, other than building work as defined in the *Integrated Planning Act 1997*, be carried out within a specified period;
  - (d) require the regular maintenance of the premises (including internal and external paintwork);
  - (e) require that specific provision, other than building work as defined in the *Integrated Planning Act 1997*, be made for electrical and fire safety;
  - (f) require the provision and maintenance of specified facilities;
  - (g) require the provision and maintenance of specified furniture and equipment;
  - (h) require the regular cleaning of the premises;
  - (i) require fumigation or other treatment of the premises to keep the premises free of vermin and insects;
  - (j) if relevant to the type of accommodation provided - require the regular provision of clean linen and towels;
  - (k) require the provision of services of specified kinds (for example, the safe custody of valuables) for the persons using the accommodation;
  - (l) require that the operator or a representative of the operator approved by the Council reside on the premises;
  - (m) require the operator to keep specified records.



- (3) Conditions of registration may be altered when registration is renewed<sup>6</sup> if the Council considers it appropriate to do so.
- (4) The Council may, by local law policy, prescribe conditions that must be imposed on registration or that will ordinarily be imposed on registration.
- (5) For avoidance of doubt:-
  - (a) conditions of registration may deal with the same subject matter as requirements under a local law policy made pursuant to section 8; and
  - (b) if a condition of registration is inconsistent with a requirement under a local law policy, the condition prevails to the extent of the inconsistency.

### **Compliance with conditions of registration**

12. An operator must ensure that the conditions of registration are complied with (whether or not the operator is the applicant for registration<sup>7</sup>).

Maximum penalty - 40 penalty units.

### **Notice to Council of ceasing to provide accommodation**

13. An applicant who has obtained registration of premises and who ceases to be an operator for those premises<sup>8</sup> must notify the Council of that fact within 7 days of ceasing to be an operator.

Maximum Penalty - 20 penalty units.

## **PART 3 - ENFORCEMENT**

### *Division 1 - Inspection Division*

#### **Inspection of premises**

14. (1) An authorised person may inspect premises<sup>9</sup> used to provide accommodation to which this local law applies to find out whether the premises comply with-
- (a) the requirements of this local law and relevant local law policies; and
  - (b) if the premises are registered - conditions of registration.

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<sup>6</sup> Under section 10(2)

<sup>7</sup> The applicant must be an operator, but other persons (eg a non-resident owner) may also be an operator as defined in s 3.

<sup>8</sup> Which means that the registration expires - s 10(1)(b).

<sup>9</sup> This law does not confer a power of entry. To enter the premises, the authorised officer must comply with s 665 of the Local government Act 1993.

- (2) An authorised person may require a person apparently in charge of the premises to produce for inspection records that are required under this local law.
- (3) A person must not refuse or fail to comply with a requirement under subsection (2).
- Maximum penalty - 50 penalty units.

### ***Division 2 - Compliance notices and closure of premises***

#### **Compliance notices**

15. (1) If a provision of this local law<sup>10</sup> or a condition of registration<sup>11</sup> is contravened, an authorised person may give to an operator for the premises written notice (a **compliance notice**) requiring the operator to take specified action, within a specified period, to remedy the contravention.
- (2) A person to whom a compliance notice is given must comply with the notice.
- Maximum penalty - 40 penalty units.
- (3) If a person takes the action required by a compliance notice, the person cannot be later prosecuted for an offence arising from the contravention in respect of which the notice was given.

#### **Council's power to have work carried out**

16. (1) If a person contravenes section 15(2), the Council may itself take the action required by the compliance notice.
- (2) Subsection (1) applies whether or not there has been a prosecution for an offence.
- (3) The Council may enter land to take the required action under section 661 of the Act.
- (4) If the person who contravened section 15(2) is the owner of the relevant land the amount properly and reasonably incurred by the Council in taking the action is recoverable (together with interest) under sections 661, 662 and 663 of the Act.
- (5) If the person who contravened section 15(2) is not the owner of the relevant land, the amount properly and reasonably incurred by the Council is recoverable as a debt from the person, together with interest on the same basis as applies to an owner of land under section 662 of the Act.

#### **Closure of premises**

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<sup>10</sup> Including section 9 which obliges persons to comply with, or ensure compliance with, requirements specified in a local law policy.

<sup>11</sup> see section 11

17. (1) If-
- (a) premises which are not registered under Part 2 are being used to provide accommodation to which this local law applies; or
  - (b) a person to whom a compliance notice is given fails to comply with the notice,
- the Council may, by written notice given to the operator, prohibit use of the premises for providing accommodation to which this local law applies.
- (2) Subsection (1) applies whether or not there has been a prosecution for an offence.
  - (3) If the premises were registered, a notice under subsection (1) cancels the registration.
  - (4) A person must not use premises to provide accommodation to which this local law applies knowing that the Council has given a notice under this section.
- Maximum penalty - 100 penalty units.
- (5) However, if the Council revokes the notice and grants registration of the premises, the premises may be again used for providing accommodation to which this local law applies.

#### **Summary closure to prevent nuisance etc.**

18. (1) If in the Council's opinion, it is urgently necessary to stop the use of premises for accommodation to which this local law applies because of a serious risk to health or safety, the Council may, by written notice given to an operator for the premises, prohibit use of the premises for providing accommodation to which this local law applies.<sup>12</sup>
- (2) If the premises were registered, a notice under this section cancels the registration.
  - (3) A person must not use premises to provide accommodation to which this local law applies knowing that the Council has given a notice under this section.
  - (4) However, if the Council revokes the notice and grants registration for the premises, the premises may be again used for providing accommodation to which this local law applies.

#### **Notice of closure**

19. (1) Where use of premises is prohibited under sections 17 or 18, the Council may affix to those premises a notice advising of the prohibition in a form specified by local law policy.

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<sup>12</sup> Where it is urgently required to stop the use of the premises for providing accommodation, notice will not be issued under this section where an enforcement notice, issued under section 22 of the *Building Act 1975*, could be issued.

- (2) A person must not take down, obscure or otherwise interfere with a notice affixed to premises pursuant to subsection (1) unless:-
- (a) registration is granted for the premises; or
  - (b) the Council otherwise gives its written consent to removal of the notice.

Maximum penalty - 100 penalty units

### ***Division 3 - Particular offences and related matters***

#### **Misdescription of premises**

20. (1) A person must not:-
- (a) display on premises which are not registered any sign or notice indicating that the premises are registered under this law; or
  - (b) in any manner or by any means describe premises which are not registered as being registered under this law.

Maximum penalty - 20 penalty units

- (2) For the purposes of this section, a display or description that indicates that premises are registered (without referring to any particular law) is taken to be an indication or statement that the premises are registered under this law.

#### **Passageways and common use areas must be kept clear**

21. An operator 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) passageway; or
  - (e) other area intended for common use,

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

Maximum penalty - 100 penalty units

#### **Effect of certain convictions**

22. (1) This section applies if a person is found guilty of 3 or more offences against any provision of this local law committed within a period of 2 years.

- (2) Any registration of premises (including, but not limited to, premises to which the offences relate) for which that person is or was an operator<sup>13</sup> is cancelled:-
- (a) if the person appeals against the 3rd conviction the appeal being dismissed, struck out or discontinued; or
  - (b) if the person does not appeal against the 3rd conviction the end of the time fixed by law within which an appeal must be started.
- (3) The person is not entitled to apply for registration of any premises under this law for a period of 2 years following the cancellation.
- (4) Further, the person must not be an operator of accommodation to which this local law applies for a period of 2 years following the cancellation.
- Maximum penalty - 200 penalty units
- (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 premises,
- if the court is satisfied that it would be just to give the direction.

## PART 4 - MISCELLANEOUS

### Local law policies Local law

22. The Council may make local law policies about matters about which this local law specifically allows for the making of local law policies.

### Registration fees

23. (1) The Council may fix fees payable in respect of the registration of premises under this local law on the basis or bases the Council thinks appropriate<sup>14</sup>.
- (2) Without limiting subsection (1), the amount of the registration fee may vary as between different premises, or different classes or categories of premises, according to the extent to which the premises, class or category are assessed as being operated in compliance with applicable provisions of this local law and any relevant local law policy.

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<sup>13</sup> Note that the person must be an operator for the premises, but may not necessarily be the applicant for registration. This subsection nevertheless cancels the registration for the premises. It allows effective action to be taken where, for example, an owner is persistently providing substandard accommodation, but is using an employee or agent as a front to hold the registration.

<sup>14</sup> The power to fix fees is given by s 570 of the *Local Government Act 1993*.

**Transitional - existing registration**

25. (1) Where premises required to be registered under this law are registered under a corresponding previous local law on the day of commencement of this law, the premises are taken to be registered under this law until the expiry of the existing registration.
- (2) Subject to subsection (3), an existing registration expires on the date upon which it would have expired if this law had not commenced.
- (3) However, the Council may by local law policy prescribe an earlier or later date as the date of expiry of an existing registration.

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