

## **GENERAL SCHEME**

### **REGISTRATION OF SHORT-TERM TOURIST LETTING BILL 2022**

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## **PART 1 – PRELIMINARY AND GENERAL**

### **HEAD 1 - LONG TITLE**

To provide that the Long Title of the Bill is:

An Act to amend the Tourist Traffic Acts 1939 – 2016 (the “Acts”)<sup>1</sup> to make provision for the registration of short-term tourist lettings which arises in circumstances where the quantity and type of accommodation offerings for tourists that are advertised as available in Ireland greatly outnumber those businesses that are registered and known to Fáilte Ireland; to require any party offering accommodation on a short-term basis to tourists (referred to as “short-term tourist letting” or “STTL”) to be registered on a register and hold a valid registration number issued by Fáilte Ireland; where the accommodation does not appear on a register and no valid registration number is held, the proprietor and any person who promotes the premises will face prosecution where they provide, advertise, or otherwise offer such unregistered accommodation to tourists for periods of up to 21 nights.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

### **EXPLANATORY NOTE:**

It is standard to provide each Bill with a LONG TITLE, giving detail as to its scope and purpose, as well as a succinct SHORT TITLE, providing a convenient reference thereto.

Housing for All, which was published in September 2021, includes Action 20.4 which commits to the development of "new regulatory controls requiring short-term and holiday lets to register with Fáilte Ireland with a view to ensuring that houses are used to best effect in areas of housing need".

The Long Title of the Bill will be considered further on consultation with the Office of Parliamentary Counsel.

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<sup>1</sup> Where appropriate the reference to the ‘Acts’ and, in particular, section numbering should be interpreted as a reference to the ‘Tourist Traffic Acts 1939 to 2003 Restatement’ as certified by the Attorney General on 17 May 2004 under section 2(1) of the Statute Law (Restatement) Act 2002

## **HEAD 2 - SHORT TITLE, COMMENCEMENT AND COLLECTIVE CITATION**

To provide that –

- (1) This Act may be cited as the Registration of Short-Term Tourist Letting Act 2022.
- (2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and different provisions.”
- (3) The Tourist Traffic Acts 1939 to 2016 may be cited together with the Registration of Short-term Tourist Letting Act 2022 as the Tourist Traffic Acts 1939 to 2022.

### **EXPLANATORY NOTE:**

It is standard to provide for a convenient Short Title, by which an Act may be generally referred to, to facilitate the commencement of the Act and to provide for a collective citation, as well as providing for a Long Title giving greater detail as to the scope of the Act in question.

### **HEAD 3 – REGULATIONS**

To provide that –

A new Section 20(2) is inserted after Section 20(1) as follows:

Every regulation made by the Board under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling it is passed by either House within the next 21 days on which House sits after it is laid before the House, it shall be annulled accordingly, but without prejudice to the validity of anything previously done by or under it.

#### **EXPLANATORY NOTE:**

It is proposed that, pursuant to the Amending Act, high level matters and matters which are required to be prescribed by Fáilte Ireland will be set out in a Statutory Instrument. New Regulations listed before the Oireachtas shall replace/annul any previous regulations but without prejudice to the validity of anything previously done under such regulation.

## **HEAD 4 – INTERPRETATION**

### **DEFINITIONS UNDER PART III**

In this Act–

“proprietor” means any person with a legal or beneficial interest in the premises including but not limited to an owner, occupier or lessee of the premises.

“short- term tourist letting” means overnight sleeping accommodation: -

- (a) at a premises provided for consideration to one or more tourists for any period up to 21 nights; and
- (b) not being provided at a premises requiring registration on the registers contained in section 24(1)(a), (b), (c), (d), (e), (g) of the 1939 Act

“tourist” means

A person who travels from their place of residence:

- (a) to visit the State,
- (b) to spend their holiday in the State, or
- (c) to travel within the State

“ valid registration number” means a registration number as issued by the Authority in respect of the relevant register, in respect of a particular premises that has not been cancelled, suspended, has expired, or been removed from the register pursuant to an order of the Court.

“Minister” means the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media.

### **EXPLANATORY NOTE:**

This is a standard provision which sets out the definitions of key terms used in the General Scheme. Further definitions may be identified during the drafting process.

## **HEAD 5 - AMENDMENT OF SECTION 24 TO CREATE A NEW STATUTORY REGISTER CALLED ‘REGISTER OF SHORT-TERM TOURIST LETTING’.**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended –

(a) by the insertion of the following section after section 24(1):

(j) a register to be called and known in this Act as the register of short-term tourist letting

(b) by the repeal of sections 24(1) (f) , (h) and (i):

(c) by the substitution of paragraph (c) of section 24(2) for the following paragraph: such other prescribed information as the Board considers necessary for the purposes of the performance of its functions under this Act.

(d) the repeal of section 24(3)

(e) by the insertion of the following (new) section 24(4) after section 24(3):

24 (4) A premises that consists of more one than one form of accommodation to which any of the registers as listed in subsection (1) applies shall be listed on each register as applicable to be referred to as the “the relevant register” for the purposes of section 31A.

### **EXPLANATORY NOTE:**

At present Fáilte Ireland’s statutory functions relate to the regulation of those types of tourist accommodation for which registers have been established under the Acts. These include accommodation types such as ‘hotel’, ‘guest house’ and ‘youth hostel’. Section 24 of the Acts established nine registers, each one relating to a particular type of premises by reference to its description (hereinafter referred to as a “prescribed term”). The necessity for a premises to be registered on one of the registers arises where a premises is described or held out as one of the prescribed terms. The existing registration regime encompassed the majority of tourist accommodation available at the time when the first Tourist Traffic Act was introduced in 1939. However, the evolution of tourist accommodation since then means that the existing regime, despite some additions since 1939, does not capture a significant part of the tourist accommodation now offered in Ireland with the result that quite a lot of tourist accommodation in Ireland falls outside of the statutory framework (for example bed and breakfast accommodation or house rentals do not fall within the existing registers). This new Register of Short-Term Tourist Letting (“STTL Register”) is being established to remedy the gaps which have developed and is sufficiently general to anticipate the future development of tourist accommodation insofar as is possible. The provisions referring to motor hotels, holiday cottages and holiday apartments are being repealed. The definition of short term letting captures self-catering accommodation such as holiday cottages and holiday apartments. In respect of motor hotels, the use of the term ‘hotel’ will require registration on the hotels register (section 24(1) (a)). It is also proposed that a list of terms will be included as requiring registration on the hotels register including the terms motel and aparthotel. Subsection (3) is being repealed to allow for the registration of more than one form of tourism accommodation, in circumstances where there are two or more categories of accommodation within the one premises e.g. A Hotel with an adjacent glamping site and a further section (4) is being inserted to require a premises to be registered on more than one register where more than one form of accommodation is promoted, advertised or otherwise offered.



## **HEAD 6 - ELIGIBILITY FOR REGISTRATION IN THE RESPECTIVE REGISTERS**

Provide that –

The Tourist Traffic Acts 1939 – 2016 are amended –

- (a) by the insertion of the following section after section 25:
  - (j) the general character, the type of accommodation and service provided, and the other qualifications which shall be requisite in respect of any premises in order that such premises may be eligible for registration in the register of short-term tourist letting;
- (b) by the repeal of sections 25 (f) , (h) and (i).

### **EXPLANATORY NOTE:**

This provides an insertion to section 25 of the Acts to provide for Fáilte Ireland prescribing the criteria for a premises to be registered on the STTL Register, which can be prescribed by Fáilte Ireland (by Statutory Instrument) and updates the relevant type of registers accordingly (eg. removes those for holidays cottages and holiday apartments as those will now be included in the STTL register).

## **HEAD 7 - APPLICATIONS FOR REGISTRATION**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended –

(a) By the substitution of Section 26 (2)(a) by the following: (a) be made in writing or by electronic means on such form as is provided from time to time by or on behalf of the Board

(b) By the insertion of the word “and” after Section 26 (2)(b)

(c) By the substitution of Section 26 (2)(c) with the following:  
be accompanied by such fee as prescribed by the Board with the approval of the Minister, and

(d) By the substitution of Section 26 (2)(d) by the following paragraph: be also accompanied by a statement (in this Act referred to as a scale of charges) in the prescribed form of the charges which the applicant proposes to make for rooms provided in such premises during the period between such registration (if granted) and the then next date of renewal.

### **EXPLANATORY NOTE:**

This amends section 26 of the Acts to provide for an application to be made by electronic means, to allow Fáilte Ireland (FI) to determine registration fees (subject to the Minister’s approval) and the scale of charges for rooms until the date of next registration renewal. Any registration fees charged are administrative in nature and are designed to cover the cost of the regime. Specifically in relation to STTL registration fees, it will not be possible (given FI’s lack of understanding as to nature of the sector) to design a fully equitable fee system in year 1 or 2 – FI will need to revise the fees in the first few years of operation and it is suggested that this process should not be unduly burdensome, in particular in light of the fee amounts involved. The Minister will retain oversight as fees made by the Board require the Minister’s approval.

## **HEAD 8 – REGISTRATION AND INSPECTION OF PREMISES**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended –

By the substitution of Section 27 by the following paragraphs:

27—With the exception of an application for the registration of a premises on the register of short-term tourist letting:-

(1) Whenever an application is duly made to the Board for the registration of premises in a register, the Board may cause such premises to be inspected by an officer of the Board.

(2) Whenever premises in respect of which an application was duly made to the Board for registration in a register and the Board is of opinion that such premises are eligible for registration in such register, the Board shall inform the applicant that his premises will be registered in such register on payment to the Board of the appropriate fee.

3) Whenever premises in respect of which an application was duly made to the Board for registration in a register and the Board is of opinion that such premises are not eligible for registration in such register, the following provisions shall apply and have effect, that is to say:—

(a) the Board shall serve notice upon the applicant that the Board is of opinion that such premises are not eligible for registration in such register and that the applicant may, within fourteen days after service of such notice make written representations to the Board with a view to showing that such premises are eligible for such registration;

(b) if during the said fourteen days no such written representations are received by the Board, the Board shall refuse such application;

(c) if during the said fourteen days such written representations are received by the Board, the Board shall cause an inspection of such premises to be made ;

(d) if the Board, notwithstanding such inspection and having considered the written representations received as aforesaid, remains of opinion that such premises are not eligible for registration in such register, the Board shall refuse such application;

(e) if the Board, as a result of such inspection and having considered the written representations received as aforesaid, becomes of opinion that such premises are eligible for registration in such register, the Board shall inform the applicant that his premises will be registered in such register on payment to the Board of the appropriate fee.

(4) An applicant for registration of premises in a register who has been informed by the Board that such premises will be registered in such register on payment to the Board of the appropriate fee may pay the said fee to the Board, and thereupon the Board shall register such premises in such register.

(5) References in this section to the opinion of the Board that premises are not eligible for registration in any register shall be construed as references to such opinion formed by the Board itself or to a committee established pursuant to section 23 of the 2003 Act.

(6) The appropriate fees for the purposes of this section may be so determined by the Board and approved by the Minister, as to vary in amount according to the register in which the relevant premises are to be registered and according to any other matters which the Board thinks proper.

**EXPLANATORY NOTE:**

These amendments allow for registration inspections at the discretion of Fáilte Ireland, on the basis that Fáilte Ireland do not intend to inspect any short-term tourist letting premises prior to registration while it will continue to exercise its discretion in relation to the inspection of premises on other registers. It is thus amended to exclude its application to short-term tourist letting. In addition, section 27 (5) is amended to allow for the opinion of the Authority to be delegated to a properly established committee pursuant to section 23 of the 2003 Act.

## **HEAD 9 – REGISTRATION OF STTL PREMISES**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

27A. On receipt of an application for the registration of a premises in the register of short-term tourist letting in accordance with the requirements of section 26 the premises shall be registered in the register of short-term tourist letting.

### **EXPLANATORY NOTE:**

This new section 27A is inserted to provide for the registration of STTL premises, where the requirements of section 26 have been met. It is intended that registration of STTL will take place automatically online and will not require Fáilte Ireland approval or prior inspection. Fáilte Ireland will still retain the discretion to inspect STTL should they chose to do so.

## **HEAD 10 – DURATION OF REGISTRATION**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

By the substitution of Section 28(1) as follows-

(1) (a) With the exception of premises registered in the register of short-term tourist letting, every registration of premises in a register shall (unless sooner terminated under this Act) continue in force until the next following 31st day of December and shall then terminate unless it is renewed under this Act.

(b) The registration of a premises on the register of short-term tourist letting shall (unless sooner terminated under this Act) continue in force for 12 months and shall then terminate unless it is renewed under this Act.

### **EXPLANATORY NOTE:**

These are provisions to ensure the duration of registration for premises which automatically transfer to the STTL register (i.e. those listed in Schedule 1) is 12 months and set the registration term for STTLs at 12 months.

## **HEAD 11 – APPLICATIONS FOR RENEWAL OF REGISTRATION**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

(a) By the substitution of Section 29(1) as follows-

(1) (a) The registered proprietor of any premises registered in a register referred to in section 24(1)(a), (b), (c), (d), (e), (g) may apply to the Board on or before the 15th day of November in any year for the renewal of the registration of such premises as from the next following 31st day of December.

(b) The registered proprietor of any premises in the register of short-term tourist letting may apply to the Board for renewal of the registration of such premises prior to the expiration of 12 months following the last renewal or first registration pursuant to section 27A or section 37F, as the case may be.

(b) By the substitution of Section 29(2)(a) by the following paragraph: be made by electronic means on such form as is provided from time to time by or on behalf of the Board,

(c) By the amendment of Section 29(2)(a) by the following: c) be accompanied by the fee,

(d) By the substitution of Section 29(2)(d) by the following paragraph: be also accompanied by a statement (in this Act referred to as a scale of charges) in the prescribed form of the charges which the applicant proposes to make for rooms provided in such premises during the period while such registration, if it is renewed, will remain in force by virtue of such renewal, and

(e) By the substitution of Section 29(3) by the following paragraph: The appropriate fees for the purposes of this section may be so determined by the Board and as approved by the Minister, as to vary in amount according to the register in which the relevant premises are registered and according to any other matters which the Board thinks proper.

### **EXPLANATORY NOTE:**

This allows for the renewal of STTL on a 12 month rolling basis and facilitates online applications only. The registration system being developed is an online registration system for proprietors who are offering their product online and take payment online, where offences relate to the online advertising of the product. 99+% of properties are advertised online. There may be a very small minority of cases where help might be required. To cater for those Fáilte Ireland will allow third parties to register on a person's behalf and will have a telephone team who can also assist. In relation to existing registers it removes the reference to prescribed fees and amends the scale of charges (in line with amendment made to section 26) to include room rates only. Any registration fees charged are administrative in nature and are designed to cover the cost of the regime. Specifically in relation to STTL registration fees, it will not be possible (given FI's lack of understanding as to nature of the sector) to design a fully equitable fee system in year 1 or 2 – FI will need to revise the fees in the first few years of operation and it is suggested that this process should not be unduly burdensome, in particular in light of the fee amounts involved. The Minister will retain oversight as fees made by the Board require the Minister's approval.

## **HEAD 12 – RENEWAL OF REGISTRATION FOR NON STTL**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

(a) By the amendment of Section 30(1) by the insertion of the following after 30 and before (1):  
.—To the exclusion of a premises registered in the register of short-term tourist letting:-

(b) By the substitution of Section 30(2) by the following paragraph:

30(2) Whenever an application is duly made to the Board for the renewal of the registration of premises in a register and the Board is of opinion that such premises have ceased to be eligible for registration in such register, the Board shall cause such premises to be inspected by a registration officer. Where an inspection has been carried out pursuant to section 41 in the 90 days prior to the Board forming its opinion pursuant to this sub-section, it shall not be necessary for an additional inspection to be carried out pursuant to this sub-section.

(c) By the substitution of Section 30(4)(c) by the following paragraph:

if during the said fourteen days such written representations are received by the Board, the Board shall cause a second inspection of such premises to be made by an officer of the Board;

(d) By the substitution of Section 30(6) by the following paragraph:

References in this section to the Board or the opinion of the Board shall be construed as references to the Board itself or to a committee established pursuant to section 23 of the 2003 Act.

### **EXPLANATORY NOTE:**

This excludes the application of the section to STTL, to which a new section 30A will apply. Section 30(2) is to be amended to allow any inspection carried out pursuant to section 41 in the 90 days prior to the Board forming its opinion to be used as the first inspection required under sub-section (2). The ability to engage a contractor to carry out the functions of the Board under parts of Section 30 is provided for in NDTA 2003. Now for clarity, Section 30(2) and 30(4)(c) are being amended to specify that inspections under this section may be carried out by registration officers (which could include service providers) with final inspections carried out by a Fáilte Ireland representative. Section 30(6) is amended to remove the restriction that the “opinion of the Board” relates to the Board itself. For clarity, section 30(6) provides that any reference to the “Board” should be construed to include a committee of the Board duly established pursuant to the 2003 Act.



## **HEAD 13 – RENEWAL OF REGISTRATION FOR STTL**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

30A—

(1). On receipt of an application for the renewal of registration of a premises in the register of short-term tourist letting in accordance with the relevant provisions of section 29 the Authority shall renew the registration of such premises in the register of short-term tourist letting.

(2) Whenever an application is duly made to the Authority for the renewal of the registration of a premises in the register of short-term tourist letting and the Authority is of opinion that such premises have ceased to be eligible for registration in such register, the Authority may cause such premises to be inspected by a registration officer. Where an inspection has been carried out pursuant to section 41 in the 90 days prior to the Authority forming its opinion pursuant to this sub-section, it shall not be necessary for an additional inspection to be carried out pursuant to this sub-section.

(3) Whenever the short-term tourist letting premises has been inspected under sub-section (2) of this section and the Authority, as a result of such inspection, becomes of opinion that such premises have not ceased to be eligible for registration in such register, the Authority shall renew the registration of such premises in such register.

(4) Whenever the short-term tourist letting premises has been inspected under sub-section (2) of this section and the Authority, notwithstanding such inspection, remains of opinion that such short-term tourist letting premises has ceased to be eligible for registration, the following provisions shall apply and have effect, that is to say:—

(a) the Authority shall serve notice upon the applicant that the Authority is of opinion that such short-term tourist letting premises has ceased on stated grounds to be eligible for registration and that the applicant may, within fourteen days after service of such notice, make written representations to the Authority with a view to showing that such premises have not ceased to be eligible for registration;

(b) if during the said fourteen days no such written representations are received by the Authority, the Authority shall refuse such application;

(c) if during the said fourteen days such written representations are received by the Authority, the Authority shall cause a second inspection of such premises to be made by a different officer of the Authority;

(d) if the Authority, notwithstanding such second inspection and having considered the written representations received as aforesaid, remains of opinion that such short-term tourist letting premises had ceased to be eligible for registration, the Authority shall refuse such application;

(e) if the Authority, as a result of such second inspection and having considered the written representations received as aforesaid, becomes of opinion that such premises have not ceased to be eligible for registration in such register, the Authority shall renew the registration of such short-term tourist letting premises.

(5) References in this section to the Authority or the opinion of the Authority shall be construed as references to the Authority itself or to a committee established pursuant to section 23 of the 2003 Act.

**EXPLANATORY NOTE:**

This new section requires Fáilte Ireland to renew a registration where the requirements are met and grants Fáilte Ireland the discretion to inspect STTL, but does not require it.

## **HEAD 14 – REGISTRATION CERTIFICATES AND ENFORCEMENT**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

(a) By the substitution of Section 31(1) with the following paragraphs:

31. (1) Whenever the Board registers or renews any premises, the Board shall give, free of charge, to the registered proprietor of a premises:

- (a) a registration number in respect of that premises and
- (b) a certificate (in this Act referred to as a registration certificate) of such registration.

Subsection (b) shall not apply to premises registered in the short-term tourism letting register.

(b) By the substitution of Section 31(4) and 31(5) with the following paragraph:

(4) Whenever the registered proprietor of any registered premises fails to display, in accordance with paragraph (c) of subsection (3) of this section, the registration certificate for the time being in force in respect of such premises, s/he shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a class A fine not exceeding €5,000 together with, in the case of a continuing offence, a further fine (not exceeding €5,000 in all) not exceeding €100 for every day during which the offence continues.

### **EXPLANATORY NOTE:**

This requires that a registration number shall be issued with a registration certificate to all registers with the exception of STTL, where only a registration number will issue. It also incorporates the issue of a registration number upon registration on each renewal and amends the section to refer to a class A fine not exceeding €5,000 and not exceeding €100 for each day the offence continues up to a maximum of €5,000.

## **HEAD 15 – REGISTRATION ENFORCEMENT – PROVIDING FOR AN OFFENCE**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

31A—

(1) A valid registration number shall be displayed when promoting, advertising or otherwise offering any premises required to be registered under this Act.

(2) Any person who contravenes or fails to comply subsection (1) shall be guilty of an offence and shall be liable:

- (i) on summary conviction thereof to a class A fine or to imprisonment for a term not exceeding 12 months or both, or
- (ii) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

(3) This section shall not apply to an information society service as defined in Part VI.

(4) This section shall come into operation on such day as may be appointed by order of the Minister.

### **EXPLANATORY NOTE:**

This new section is inserted to make an offence of the advertisement or promotion of any tourist accommodation without displaying a valid registration number. The proposed definition of “valid registration number” incorporates the term “relevant register”. This means that a breach of section 31A includes the display of a registration number as issued for a different form of accommodation as that being advertised, promoted or offered. An example of such a breach would include the use of a hotel registration number for advertising self-catering accommodation on the same premises. Such self-catering accommodation on the hotel premises would require registration on the STTL register.

## **HEAD 16 – RESTRICTION ON DESCRIPTION OF PREMISES - HOTEL**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

(a) By the substitution of Section 33(1) and 33(2) with the following paragraphs:

33.—

(1) It shall not be lawful for the proprietor of any premises to describe or hold out or permit any person to describe or hold out such premises as a hotel, motel, resort, lodge, apartment hotel, apartotel, aparthotel or microtel and any variation thereof, unless such premises are registered in the register of hotels and such proprietor is registered in that register as the registered proprietor of such premises.

(2) Any person who acts in contravention of this section shall be guilty of an offence under this section and shall be liable:

- (i) on summary conviction thereof to a class A fine or to imprisonment for a term not exceeding 12 months or both, or
- (ii) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

### **EXPLANATORY NOTE:**

This updates the list of premises which may be used to describe hotel-type accommodation which requires mandatory registration and updates the offences for same to a Class A fine and allows for imprisonment on conviction.

## **HEAD 17 – RESTRICTION ON DESCRIPTION OF PREMISES – GUEST HOUSE, HOLIDAY HOSTEL, YOUTH HOSTEL, CARAVAN & CAMPING SITE**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

(a) By the substitution of each of Sections 34(2), 35(2), 36(2) and 37B(2) with the following paragraphs:

(2) Any person who acts in contravention of this section shall be guilty of an offence under this section and shall be liable:

- (i) on summary conviction thereof to a class A fine or to imprisonment for a term not exceeding 12 months or both, or
- (ii) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

### **EXPLANATORY NOTE:**

This updates the offences to a Class A fine and allows for imprisonment on conviction.

## **HEAD 18 – PROMOTING, ADVERTISING OR OTHERWISE OFFERING STTL**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

37E—

- (1) It shall be unlawful for a person to promote, advertise or otherwise offer, or to permit any person to promote, advertise or otherwise offer, any premises for short-term tourist letting unless such premises is registered in the register of short-term tourist letting,
- (2) Any person who acts in contravention of this section shall be guilty of an offence under this section and shall be liable:
  - (i) on summary conviction thereof to a class A fine or to imprisonment for a term not exceeding 12 months or both, or
  - (ii) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.
- (3) This section shall not apply to information society services as defined in Part VI of this Act
- (4) This section shall come into operation on such day as may be appointed in that behalf by order of the Minister.

### **EXPLANATORY NOTE:**

This makes it illegal to promote, advertise or otherwise offer a short-term tourist letting which is not properly registered on the STTL register and sets out the relevant offences and sanctions. Existing short term tourist letting premises will have 6 months from the commencement date of this section to apply to register on the STTL register. This is with the exception of certain premises (specifically all premises registered on the “non-statutory register” as published by Fáilte Ireland listing B&Bs, Welcome Standard, historic houses, individual self-catering apartments and individual self-catering cottages) which will automatically transfer on to the STTL upon commencement of Section 37F (see Section 37F below for details). It also states that this section will not apply to Information Society Services as they are dealt with separately under Part VI of the Act.

## **HEAD 19 – TRANSFER OF CERTAIN PREMISES ONTO THE STTL REGISTER**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

37F—

(1) A premises which is entered on a register as listed in Schedule 1 of this Act shall, on commencement of this section, be deemed to be transferred onto the short-term tourist letting register and shall have effect, subject to the provisions of this section, as if registered under this Act.

(2) The listed owner of any premises to which subsection (1) applies shall be deemed to be a registered proprietor for the purposes of this Act upon commencement of this section.

(3) Subject to the provisions of section 31, the Authority will issue a new registration number to a registered proprietor to which subsection (1) applies upon commencement of this section.

(4) Registers as listed in Schedule 1 of this Act shall cease to have effect upon commencement of this section.

(5) The registration for premises to which subsection (1) applies shall continue in force for a period of 12 months and shall then terminate unless it is renewed under this Act.

(6) This section shall come into operation on such day as may be appointed in that behalf by order of the Minister.

### **EXPLANATORY NOTE:**

This section allows for the automatic transfer of certain premises onto the short term tourist letting register, specifically all premises registered on the “non-statutory register” as published by Fáilte Ireland listing: B&Bs, Welcome Standard, historic houses, individual self-catering apartments and individual self-catering cottages (as referred to in a new Schedule 1). Each premises transferred will be deemed to be a registered STTL premises upon commencement of this section, which will be initiated by way of ministerial order. This is to ensure all forms of short-term tourist letting is captured on the new register. Each transferred premises shall be assigned a new STTL registration number upon commencement of this section and the duration of this registration shall be 12 months.



## **HEAD 20 – EXEMPTIONS FOR CHARITABLE ORGANISATIONS**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

By the substitution of Section 38(1) with the following paragraph:

Where the Board is satisfied that any premises are carried on by a charitable organisation which is a registered charity under the Charities Act 2009, the Board, if in its absolute discretion it so thinks fit, may by order declare that section 37B and 37E shall not apply in respect of such premises and, so long as such order remains in force, such section shall not apply in respect of such premises.

### **EXPLANATORY NOTE:**

This allows Fáilte Ireland discretion to exempt charitable organisations from the updated registration requirements.

## **HEAD 21 – GRADING OF PREMISES**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

(a) By the substitution of Section 39(4) with the following paragraph:

If the registered proprietor of any registered premises acts in contravention of the immediately preceding sub-section of this section, he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a class A fine.

(b) By the insertion of new sub-sections 39(5) and 39(6) after Section 39 as follows:

(5) It shall be unlawful for a proprietor or any person to promote, advertise or otherwise offer a premises as being of a grade not allotted to that premises by the Board and they shall be guilty of an offence and liable on summary conviction thereof to a class A fine.

(6) The Board may determine such grading standards of registered premises and may publish grading standards as it sees fit.

### **EXPLANATORY NOTE:**

This makes it an offence to promote, advertise or otherwise offer a premises of being of a grade not allotted to it by Fáilte Ireland, to allow Fáilte Ireland to issue fixed payment notices in respect of this offence and to permit Fáilte Ireland to determine grading standards of registered premises and to publish grading standards as it sees fit.

## **HEAD 22 – INSPECTION OF PREMISES**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

By the substitution of Section 41(2)(c) with the following paragraph:

furnishes information to the registration officer which is false or misleading in a material respect knowing it to be so false or misleading or being reckless as to whether it is so false or misleading shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a class A fine.

### **EXPLANATORY NOTE:**

This updates the offence to a class A fine.

## **HEAD 23 – APPOINTMENT OF AUTHORISED OFFICERS**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

41A—

(1) The Authority or the Chief Executive may appoint in writing persons to be authorised officers for the purposes of this Act.

(2) The Authority or the Chief Executive may appoint in writing any person to be an authorised officer for a fixed period for the purposes of all or any of the provisions of this Act.

(3) Every authorised officer appointed under this section shall be furnished by the Authority with a warrant of his or her appointment as an authorised officer and when exercising any power conferred on him or her by this Act as an authorised officer shall, if requested by a person affected, produce the warrant or a copy thereof to that person.

(4) An appointment under this section as an authorised officer shall cease—

(a) in the case of an appointment made by the Authority or the chief executive, where the Authority or the Chief Executive, as the case may be, revokes the appointment,

(b) where it is for a fixed period, upon the expiry of that period, or

(c) where the person appointed is an employee of the Authority, upon his or her ceasing to be such an employee.

### **EXPLANATORY NOTE:**

This provides for the power by Fáilte Ireland to appoint authorised officers for the purposes of investigative and enforcement activities.

## **HEAD 24 – POWERS OF AUTHORISED OFFICERS**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

41B— For the purposes of carrying out an investigation, an authorised officer may —

(a) subject to subsections (8) and (9) , at all reasonable times enter, inspect, examine and search any premises where he or she has reasonable grounds for believing that an offence has been committed pursuant to this Act,

(b) at such premises inspect and take copies or extracts from records relating to the activity referred to in paragraph (a) which he or she finds or with which he or she is provided in the course of his or her inspection,

(c) remove any such records from the premises and retain them for such period as he or she reasonably considers to be necessary for the purposes of his or her functions under this Act,

(d) require any person at the premises or the proprietor to give to him or her such assistance and information and to produce to him or her such records (and in the case of records in non-legible form, produce to him or her a legible reproduction thereof) that are in that persons possession or control or within that persons procurement, as he or she may reasonably require for the purposes of his or her functions under this Act,

(e) be accompanied by a member of the Garda Síochána if there is reasonable cause to apprehend any serious obstruction in the performance of any of the authorised officer’s functions under this subsection, and

(f) require a person to provide an explanation of a decision, course of action, system or practice or the nature or content of any records.

(2) A requirement under paragraph (d) or (f) of subsection (1) shall specify a period within which, or a date and time on which, the person the subject of the requirement is to comply with it.

(3) For the purposes of an investigation, an authorised officer —

(a) may require a person who, in the authorised officer’s opinion —

(i) possesses information that is relevant to the investigation, or

(ii) has any records within that persons possession or control or within that persons’ procurement as the authorised officer may reasonably require for the purposes of his or her functions under this Act, to provide that information or those records, as the case may be, to the authorised officer, and

(b) where the authorised officer thinks fit, may require that person to attend before the authorised officer for the purpose of so providing that information or those records as the case may be.

(4) The person who is the subject of a requirement under subsection (3) shall comply with the requirement.

(5) A requirement under subsection (3) shall specify —

(a) a period within which, or a date and time on which, the person the subject of the requirement is to comply with the requirement, and

(b) as the authorised officer concerned thinks fit —

(i) the place at which the person shall attend to give the information concerned or to which the person shall deliver the records concerned, or

(ii) the place to which the person shall send the information or the records concerned.

(6) Any statement or admission made by a person pursuant to a requirement under subsection (1) or (3) is not admissible against that person in criminal proceedings other than criminal proceedings for an offence under subsection (10), and this shall be explained to the person in ordinary language by the authorised officer concerned.

(7) Nothing in this section shall be taken to compel the production by any person of any records which he or she would be exempt from producing in proceedings in a court on the ground of legal professional privilege.

(8) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling without a warrant issued under subsection (9) authorising the entry.

(9) A judge of the District Court, on application by the authorised officer and if satisfied on the sworn information of an authorised officer that —

(a) there are reasonable grounds for suspecting that any information or records, as the authorised officer may reasonably require for the purposes of his or her functions under this Part, is or are held on any premises or any part of any premises, and

(b) an authorised officer, in the performance of his or her functions under this subsection, has been prevented from entering the premises or any part thereof,

may issue a warrant authorising the authorised officer, accompanied if necessary by other persons, at any time or times within 30 days from the date of issue of the warrant and on production if so requested of the warrant, to enter, if need be by reasonable force, the premises or part of the premises concerned and perform all or any of the functions conferred on the authorised officer under this section.

(10) Subject to subsection (7), a person who —

(a) withholds, destroys, conceals or refuses to provide any information or records required for the purposes of an investigation,

(b) fails or refuses to comply with any requirement of an authorised officer under this section, or

(c) otherwise obstructs or hinders an authorised officer in the performance of functions imposed under this Act,

is guilty of an offence and liable —

(i) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(ii) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

(16) An application for a warrant under subsection (9) shall be made to a judge of the District Court for the time being assigned to the District Court District within which the premises in respect of which the application is made is situated.

(17) In this section ‘ records ’ includes books, accounts or other documents or any written or printed material or copies thereof, in any form including material created, stored, maintained or preserved by means of any mechanical or electronic device whether or not created, stored, maintained or preserved in non-legible form.

### **EXPLANATORY NOTE:**

The powers of an authorised officer mirror those as currently held by the RTB under Part 7A of the Residential Tenancies Act 2004, as amended.

They include: the power to enter and search premises and take documents and other material; require the production of documents; to give evidence; impose administrative financial sanctions; and the power to bring summary criminal prosecutions on behalf of the Authority. Withholding information attracts a serious offence.

## **HEAD 25 – EVIDENCE OF THE CONTENTS OF REGISTERS**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

By the substitution of Section 42 with the following paragraphs:

1) Every register shall be—

(a) deemed to be in the proper custody when in the custody of—

(i) the Board or any officer of the Board authorised in that behalf by the Board, or

(ii) a contractor or any employee of the contractor authorised in that behalf by the contractor, or

(iii) authorised officer, and

(c) admissible in evidence without further proof on production from the proper custody.

(2) Prima facie evidence of any entry in any register may be given in any court or in any legal proceedings by the production of a copy of such entry purporting to be certified to be a true copy by a person listed in subsection (1) and it shall not be necessary to prove the signature of such person.

(3) A certificate, purporting to be signed by a person listed in subsection (1) that any premises specified in such certificate are not entered in the register specified in such certificate shall be sufficient evidence until the contrary is shown of the matters so certified, and it shall not be necessary to prove the signature of such person or that was in fact so authorised.

(4) Any person may—

(a) inspect any register on payment of such fee for each inspection as shall be prescribed;

(b) obtain a copy, certified in manner hereinbefore mentioned to be a true copy, of any entry in any register on payment of such fee, for each folio of 72 words of the copy, as shall be determined by the Board and approved by the Minister.

(c) obtain such certificate as is hereinbefore mentioned that any specified premises are not registered in a specified register on payment of such fee for each certificate as shall be determined by the Board and approved by the Minister.

### **EXPLANATORY NOTE:**

This includes “authorised officers” in the list of those responsible for the custody of the registers and allows fees for retrieval of copies of records to be determined by the Board with the approval on the Minister.



## **HEAD 26 – DISPLAY OF CHARGES**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

By the substitution of Section 43 with the following paragraphs:

43.—With the exception of premises in the register of short-term tourist letting:-

(1) The registered proprietor of registered premises shall display in such places in the said premises as it thinks proper and such and so many lists in easily legible form and on a prominent place on a website, where the premises is advertised by electronic means as it thinks proper of the charges for the time being current in respect of rooms in the said premises.

(2) If the registered proprietor of registered premises fails to comply with a requirement under this section, s/he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a class A fine together with, in the case of a continuing offence, a further fine (not exceeding €5,000 in all) not exceeding €100 for every day during which the offence is continued.

### **EXPLANATORY NOTE:**

This removes the requirement to display charges for meals and services for the existing registers. Charges will be required to be displayed for rooms only in relation to existing registers and not for the STTL register. Where the premises is advertised by electronic means, the display of charges will be required on a prominent place on a website.

## **HEAD 27 – DISPLAY OF SIGNS**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

(a) By the substitution of Section 44(3) with the following paragraphs:

(3) Save with authority of the Board, it shall not be lawful for the registered proprietor of registered premises to display outside such premises any sign indicating the standard of such premises other than a sign supplied under this section by the Board.

(b) By the insertion of the new sub section 44(3A) as follows:

(3A) It shall be an offence for the proprietor of any premises that is not a registered premises to, without the authority of the Board, display outside such premises any sign that holds that premises out as being a registered premises or indicating the standard of such premises.

(c) By the substitution of Section 44(4) with the following paragraph:

(4) If any person acts in contravention of subsection (3) or subsection (3A) of this section, s/he shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a class A fine not exceeding €5,000.

### **EXPLANATORY NOTE:**

This introduces an offence for an unregistered premises to display a sign that indicates registration or a standard of such registration without the authority of the Board and allows for a class A fine.

## **HEAD 28 – ANNUAL LIST OF REGISTERED PREMISES**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

(a) By the substitution of Section 45(1) with the following paragraphs:

The Board shall publish or cause to be published online at quarterly intervals a list of registered premises arranged so as to show separately premises registered in the register of hotels, premises registered in the register of guest houses, premises registered in the register of holiday hostels, premises registered in the register of youth hostels, premises registered in the register of caravan sites and camping sites and premises registered in the register of holiday camps and premises registered in the register of short-tourist letting.

(b) By the insertion after Section 45(3) of the following new subsection:

(4) In all legal proceedings initiated pursuant to this Act, the contents of the online register and existence of a valid registration number issued in accordance with section 31 shall be prima facie evidence of the registration of a premises.

### **EXPLANATORY NOTE:**

This removes from the required annual lists the references to holiday cottages, holiday apartments and motor hotels and includes reference to short-term tourist letting.

## **HEAD 29 – SERVICE OF NOTICE**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

By the substitution of Section 46(1) with the following paragraphs:

Where a notice is required by this Act to be served on any person the notice shall be served in one of the following ways, that is to say:—

- (a) by delivering the notice to the person
- (b) by delivering the notice to any person, of no less than sixteen years of age, who is in the employment of the person
- (c) by sending the notice by post in a prepaid letter addressed to the person at the address where he carries on business or at his last known place of abode or at the premises in respect of which the notice is issued
- (d) by email addressed to that person at the last email address last notified by them to the Authority or in the case of an information society service, by the contact details as displayed on the website of that information society service or in accordance with section 55(3).

### **EXPLANATORY NOTE:**

This allows a notice, including a fixed payment notice or a compliance notice, to be served on any person for the purposes of the enforcement.

## **HEAD 30 – FIXED PAYMENT NOTICE**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

46A –

(1) This section applies in respect of an offence under sections 31A, 33, 34, 35, 36, 37B, 37E, 39, 43 and 44 (in this section referred to as a “relevant offence”).

(2) An authorised officer who has reasonable grounds for believing that a person is committing, or has committed, a relevant offence may serve the notice referred to in subsection (3) on the person.

3) A notice in writing (in this section referred to as a “fixed payment notice”), served under subsection (2), shall be in the prescribed form, stating—

(a) that the person on whom it is served is alleged to have committed the relevant offence concerned,

(b) details of the alleged relevant offence,

(c) that a prosecution for it will not be instituted if, during the period of 21 days beginning on the date of the fixed payment notice, the person pays the prescribed amount to the Authority (by the method stated in the notice), and

(d) that in default of such payment, the person shall be prosecuted for the alleged relevant offence.

(4) If a fixed payment notice is served on a person—

(a) the person may make a payment in accordance with subsection (3)(c),

(b) the Authority shall receive and retain the payment and issue a receipt for it,

(c) any payment received shall not be recoverable by the person who made it, and

(d) a prosecution in respect of the alleged relevant offence to which the notice relates shall not be instituted during the period specified in subsection (3)(c) —

(i) if the payment specified is made during that period, and

(ii) evidence of having complied with the requirements of this Act in respect of the section to which the notice relates is provided by the person.

(5) Where a person to whom notice is given under subsection (2) produces to the authorised officer evidence of having complied with the requirements of this Act dated prior to the issuing of the notice given under subsection (2), the notice shall be withdrawn.

(6) In a prosecution for a relevant offence, it shall be presumed until the contrary is shown that—

(a) the relevant fixed payment notice has been served or caused to be served, and

(b) a payment under the relevant fixed payment notice, duly completed, has not been made.

(7) For the purposes of sub-section (6) –

(i) a document purporting to be a certificate or receipt of posting or delivery issued by or on behalf of An Post or another postal service is admissible in evidence as proof of the posting or delivery, as the case may be, of a fixed payment notice,

(ii) the onus of proving that a payment pursuant to a notice under this section has been made lies on the defendant.

(8) The Authority may, in its absolute discretion, extend the period for payment of the appropriate amount specified in the fixed payment notice issued pursuant to subsection (2) to a maximum of 3 months.

(9) The amount of a fixed payment notice shall be prescribed.

#### **EXPLANATORY NOTE:**

Where Fáilte Ireland has reasonable grounds for believing that a person has committed an offence under this new legislation, this section empowers it to issue a person with a fixed payment notice. A person who receives a fixed payment notice may, within a specified statutory time period, make a payment to Fáilte Ireland of the amount specified in the notice. Fáilte Ireland may, at its discretion, extend the payment period by three months. This Head is subject to any drafting or textual changes to be agreed between the Minister and the Attorney General. The text is being reviewed to identify any such changes that may be necessary.

## **HEAD 31 – OFFENCE FOR THE PROVISION OF FALSE OR MISLEADING INFORMATION**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

46B –

Any person who provides information to the Authority in the context of this legislation which is false or misleading or is reckless as to whether it is false or misleading in a material way shall be guilty of an offence and shall be liable: -

- (i) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
- (ii) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

### **EXPLANATORY NOTE:**

There will be a general offence for the provision of false or misleading information to Fáilte Ireland in the context of this legislation at any stage. This Head is subject to any drafting or textual changes to be agreed between the Minister and the Attorney General. The text is being reviewed to identify any such changes that may be necessary.

## HEAD 32 – OFFENCES

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended

(a) By the substitution of Section 47(1) with the following paragraphs:

Summary proceedings for an offence under this Act may be prosecuted by the Board.

(b) By the insertion after Section 47(2) of the following subsections:

3) Notwithstanding the provisions of section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence on account of contravention or failure to comply with any provision of this Part of this Act may be commenced –

(a) at any time within 12 months from the date on which the offence was committed, or

(b) at any time within 6 months from the date on which evidence sufficient, in the opinion of the person by whom the proceedings are initiated, to justify the proceedings, comes to such person's knowledge,

whichever is the later: provided that no such proceedings shall be initiated later than 2 years from the date on which the offence concerned was committed.

(4) Without prejudice to sub-section (3), a certificate signed by or on behalf of the person initiating the proceedings for an offence on account of contravention or failure to comply with any section of this Act as to the date on which evidence relating to the offence came to his or her knowledge shall be prima facie evidence thereof and in any legal proceedings a document purporting to be a certificate issued for the purposes of this sub-section and to be so signed shall be deemed to be so signed and shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate, unless the contrary is shown.

(5) Where a person is convicted of an offence under this Act, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the Authority, the costs and expenses, measured by the Court, incurred by the Authority in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of directors, employees, consultants and advisers engaged by the Authority.

(6) In a prosecution for an offence under section 31A(1) in which it is shown that a premises was promoted, advertised or otherwise offered without a valid registration number, it shall be presumed, until the contrary is shown by the defendant, that the premises did not have a valid registration number.

(7) In a prosecution for an offence referred to in section 46A (2) in which it is shown that a notice under section 46A(2) (Fixed Payment Notice) has been sent by registered post it shall be presumed, until the contrary is shown by the defendant, that the person to whom the notice was so sent has not complied with the requirements of the section to which the offence relates.



(8) If a person is convicted of an offence under this Act, the court shall, in addition to any fine or term of imprisonment imposed by the court in respect of the offence, order that the registered premises be removed from the register —

(a) in the case of a summary conviction of the offence, for such period as is specified in the order not exceeding 3 months, or

(b) in the case of a conviction on indictment of the offence, for such period as is specified in the order not exceeding 12 months.

(9) The Authority shall publish particulars, in such form and manner and for such period as it thinks fit of any conviction of a person under this Act.

**EXPLANATORY NOTE:**

This allows the Director of Public Prosecutions to prosecute certain indictable offences under this Act and sets the time limits on when proceedings can be commenced. This Head is subject to any drafting or textual changes to be agreed between the Minister and the Attorney General. The text is being reviewed to identify any such changes that may be necessary.

## **NEW PART VI**

### **DEFINITIONS UNDER THIS PART**

For the purposes of this Part “information society service” shall have the same meaning as in Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market.

‘Content Moderation’ means the activities, automated or not, undertaken by information society services aimed, in particular, at detecting, identifying and addressing illegal content, provided by recipients of the service, including measures taken that affect the availability, visibility, and accessibility of that illegal content or that information, such as disabling of access to, or removal thereof, or the recipients’ ability to provide that information, such as the termination or suspension of a recipient’s account;

‘Illegal Content’ means any information, which, in itself or in relation to the provision of services, is not in compliance with the requirements of this Act;

### **EXPLANATORY NOTE:**

Information Society Service is to be defined in accordance with the E-Commerce Directive.

All of the Heads under this new Part VI will have to be examined following the adoption by the European Commission on 7 November of the Proposal for a Regulation of the European Parliament and of the Council on data collection and sharing relating to short-term accommodation rental services and amending Regulation (EU) 2018/1724 (STR Regulation) together with the Digital Services Act (DSA) which was signed into law on 27 October and came into force on 16 November.

## **HEAD 33 – OBLIGATION TO DISPLAY REGISTRATION NUMBER**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

53 –

- (1) An information society service shall not display an advertisement for a premises required to be registered under this Act without a valid registration number.
- (2) An information society service shall ensure that any form used for the purposes of placing an advertisement of such a premises on the platform includes a designated field to record the valid registration number.
- (3) Upon receiving the registration number and prior to allowing the person concerned to use its services, an information society service shall make best efforts to assess whether the registration number is valid, reliable and complete, by reference to the registers made available by the Authority [or through requests to any person to provide supporting documents from reliable sources].
- (4) An information society service shall ensure that the valid registration number is displayed in a prominent position on the platform during the continuance of the advertisement.
- (5) An information society service shall not display an advertisement for a premises required to be registered under this Act without displaying the minimum number of nights a premises is available for a stay in return for consideration.
- (6) An information society service shall ensure that any form used for the purposes of placing an advertisement of a premises on a platform includes a designated field to record such minimum number of nights for which such premises is available for a stay by any person in return for consideration.
- (7) Section 53(3) shall come into operation on such day as may be appointed by order of the Minister.

### **EXPLANATORY NOTE:**

This makes it a requirement for information society services (ISSs) to obtain and display valid registration numbers on all advertisement for STTLs and other premises displayed on their platforms. This Head will have to be examined following the publication by the European Commission on 7 November of its Proposal for a Regulation of the European Parliament and of the Council on data collection and sharing relating to short-term accommodation rental services and amending Regulation (EU) 2018/1724 (STR Regulation) together with the Digital Services Act (DSA) which was signed into law on 27 October and came into force on 16 November. It is subject to any drafting or textual changes to be agreed between the Minister and the Attorney General. The text is being reviewed to identify any such changes that may be necessary.

## **HEAD 34 – PROTECTION AGAINST MISUSE**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

53A –

(1) An information society service shall suspend, for a reasonable period of time and after having issued a prior warning, the provision of their services to any person that frequently provides manifestly illegal content.

(2) When deciding on the suspension, an information society service shall assess, on a case-by-case basis and in a timely, diligent and objective manner, whether a person engages in the misuse referred to in section 1, taking into account all relevant facts and circumstances apparent from the information available to an information society service. Those circumstances shall include at least the following:

- (a) the absolute numbers of items of manifestly illegal content in a given time frame;
- (b) the relative proportion thereof in relation to the total number of items of information provided in a given time frame;
- (c) the gravity of the misuses, including the nature of illegal content, and of its consequences;
- (d) where it is possible to identify it, the intention of the recipient of the service, individual, entity or complainant.

(3) An information society service shall set out, in a clear and detailed manner their policy in respect of the misuse referred to in paragraph 1 in their terms and conditions, including examples of the facts and circumstances that they take into account when assessing whether certain behaviour constitutes misuse and the duration of the suspension.

(4) Section 53A shall come into operation on such day as may be appointed by order of the Minister.

### **EXPLANATORY NOTE:**

This makes it a requirement for information society services (ISSs) to suspend the provision of their services to any person that frequently provides illegal content and to set out their policies in respect of such misuse. This Head will have to be examined following the publication by the European Commission on 7 November of its Proposal for a Regulation of the European Parliament and of the Council on data collection and sharing relating to short-term accommodation rental services and amending Regulation (EU) 2018/1724 (STR Regulation) together with the Digital Services Act (DSA) which was signed into law on 27 October and came into force on 16 November. It is subject to any drafting or textual changes to be agreed between the Minister and the Attorney General. The text is being reviewed to identify any such changes that may be necessary.

## **HEAD 35 – OBLIGATION TO PROVIDE INFORMATION PERIODICALLY**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

54 –

(1) On written request from the Authority, every information society service on a monthly basis is required to prepare and deliver to the Authority details of all properties advertised on the platform in the preceding quarter.

(2) The return made to the Authority on a monthly basis shall include—

- (i) the full address including an Eircode of each listing,
- (ii) the name and address of each person using the service to offer accommodation (i.e. host),
- (iii) the registration number and the URL of each listing, and
- (iv) number of nights and the number of guests per night each premises has been rented out during the period;

(3) Every information society service shall make publicly available and in a machine readable format and in an easily accessible manner, at least once a year, clear, easily comprehensible reports on any content moderation they engaged in during the relevant period. Those reports shall include, in particular, information on the following, as applicable:

the number of compliance notices received from the Authority, categorised by the type of breach concerned and the median time needed to comply with the notice;

(4) Section 54(2) shall come into operation on such day as may be appointed by order of the Minister.

### **EXPLANATORY NOTE:**

This seeks to have information, which would include details of all listings posted on the platform in the preceding period of time, delivered by the ISSs to the Authority on a periodic (monthly) basis and further reports regarding content moderation at less frequent intervals, but at least once a year. This Head will have to be examined following the publication by the European Commission on 7 November of its Proposal for a Regulation of the European Parliament and of the Council on data collection and sharing relating to short-term accommodation rental services and amending Regulation (EU) 2018/1724 (STR Regulation) together with the Digital Services Act (DSA) which was signed into law on 27 October and came into force on 16 November. It is subject to any drafting or textual changes to be agreed between the Minister and the Attorney General. The text is being reviewed to identify any such changes that may be necessary.

## **HEAD 36 – COMPLIANCE NOTICE**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

55 –

(1) An authorised officer who is of the opinion that an information society service is committing or engaging in, or has committed or engaged in, a prohibited act or practice or is contravening or has contravened this Part, may serve, in accordance with section 46, a notice on that person (a “compliance notice”).

(2) A compliance notice shall be signed and dated by the authorised officer and shall—

(a) contain a statement of the alleged contravention, the opinion referred to in subsection (1) and the reasons for that opinion,

(b) direct the information society service to remedy the contravention or the matters occasioning that notice, including any other requirement that the authorised officer considers appropriate in order to remedy the contravention or matter (the “compliance direction and requirements”),

(c) specify the date by which the information society service is to comply with the compliance direction and requirements, and

(d) contain a statement that any failure or refusal to so comply shall result in a review by the Compliance Committee in accordance with section 56.

(3) Information society services shall put mechanisms in place to allow an authorised officer to serve a compliance notice. Those mechanisms shall be easy to access, user-friendly, and allow for the submission of notices exclusively by electronic means.

(4) An information society service shall, without undue delay, send a confirmation of receipt of the compliance notice to the authorised officer.

(5) Section 55(3) and 55(4)) shall come into operation on such day as may be appointed by order of the Minister.

### **EXPLANATORY NOTE:**

This provides that Compliance Notices shall be issued to ISSs where unregistered accommodation is advertised. This Head will have to be examined following the publication by the European Commission on 7 November of its Proposal for a Regulation of the European Parliament and of the Council on data collection and sharing relating to short-term accommodation rental services and amending Regulation (EU) 2018/1724 (STR Regulation) together with the Digital Services Act (DSA) which was signed into law on 27 October and came into force on 16 November. It is subject to any drafting or textual changes to be agreed between the Minister and the Attorney General. The text is being reviewed to identify any such changes that may be necessary.

## **HEAD 37 – DECISION BY COMPLIANCE COMMITTEE**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

56 –

- (1) The Authority shall appoint a Compliance Committee for the purposes of this section.
- (2) The members of the Compliance Committee shall be 3 in number, being two persons with not less than 10 years' experience as a practising barrister or practising solicitor, and one person who is an employee of the Authority.
- (3) Where, in the opinion of an authorised officer, an information society service has failed to comply with a compliance notice, the authorised officer shall submit a report to the Compliance Committee.
- (4) The report of an authorised officer provided to the Compliance Committee pursuant to subsection (3) shall include—
  - (i) the authorised officer's findings in relation to each contravention identified, and
  - (ii) the recommendation of the authorised officer in relation to each alleged contravention.
- (5) The authorised officer shall notify the information society service of his/her findings and recommendation to the Compliance Committee.
- (6) the information society service shall be afforded the opportunity of making a written submission to the Compliance Committee.
- (7) Written submissions referred to in subsection (6) shall be submitted to the Compliance Committee by the information society service within 10 days of it being notified of the authorised officer's recommendation. The 10 day period may be extended by the Compliance Committee for a further period not exceeding 30 days from the date of notification.
- (8) Where the Compliance Committee, in consideration of the documents referred to in subsections (4) and (7), forms the view that further information is required for the purpose of enabling it to make a decision under subsection (9), it may, as it considers appropriate, request clarification or further information from the authorised officer or the information society service, as the case may be.
- (9) The Compliance Committee, having considered any information submitted under subsections (4), (7) and (8), and having regard to the matters in section 58, shall issue a final decision.
- (10) Where the Compliance Committee determines under subsection (9) that there has been a breach or a failure to comply with the compliance notice by the information society service concerned, the Compliance Committee may direct, that the information society service shall, subject to subsection (15) and section 57, pay the Authority a financial sanction not exceeding €5,000 in relation to each contravention.
- (11) The Compliance Committee shall, as soon as practicable after it reaches its decision, shall notify the information society service concerned and the Authority of the decision and provide a copy of the decision.

(12) The notification in subsection (11) shall:

- (a) set out the reasons for the decision;
- (b) where section (10) applies, state that the Compliance Committee intends to notify the Authority to make an application to the Circuit Court in accordance with subsection (14);
- (c) the right of an appeal pursuant to section 57.

(13) Where an information society service does not appeal in accordance with section 57 against a decision by the Compliance Committee to impose an administrative fine, the Compliance Committee shall, as soon as is practicable after the expiration of the period referred to in that subsection, notify the Authority of the expiration of such period.

(14) Upon receipt of the notification referred to in subsection (13) the Authority shall, on notice to the information society service concerned, make an application in a summary manner to the Circuit Court for confirmation of the decision.

(15) The Circuit Court shall, on the hearing of an application under subsection (14), confirm the decision the subject of the application unless the Court sees good reason not to do so.

#### **EXPLANATORY NOTE:**

This requires Fáilte Ireland to establish a 3 person Compliance Committee comprising two persons with not less than 10 years' experience as a practising barrister or practising solicitor, and one employee of the Authority. The Committee is to consider reports from authorised officers of non-compliance by ISSs where the ISS has failed to comply with a Compliance Notice. It requires the authorised officer to furnish a copy of their report to the ISS and allows the ISS to make a written submission to the Compliance Committee. The Compliance Committee can seek clarification and further information from either the authorised officer or ISS and makes a final decision. It allows Fáilte Ireland to impose an administrative fine on the ISS and apply to the Circuit Court for confirmation of the decision. This Head will have to be examined following the publication by the European Commission on 7 November of its Proposal for a Regulation of the European Parliament and of the Council on data collection and sharing relating to short-term accommodation rental services and amending Regulation (EU) 2018/1724 (STR Regulation) together with the Digital Services Act (DSA) which was signed into law on 27 October and came into force on 16 November. It is subject to any drafting or textual changes to be agreed between the Minister and the Attorney General. The text is being reviewed to identify any such changes that may be necessary.



## **HEAD 38 – APPEAL TO A DECISION OF THE COMPLIANCE COMMITTEE**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

57 –

(1) An information society service that is the subject of a decision under section 56(10) to impose a financial sanction may, within 28 days from the date on which notice of the decision concerned was given to it under subsection (11) appeal to the Court against the decision.

(2) The Court, on hearing an appeal under subsection (1), may consider any evidence adduced or argument made by the information society service concerned.

(3) Subject to subsections (4) and (5), the court may, on the hearing of an appeal under subsection (1)—

- (a) confirm the decision the subject of the appeal,
- (b) replace the decision with such other decision as the court considers just and appropriate, including a decision to impose a different sanction or no sanction, or
- (c) annul the decision.

(4) The Court may, for the purposes of subsection (3), consider the factors as outlined in section 58.

(5) Where the court decides under subsection (3)(b) to impose a different sanction, the amount of the sanction imposed by the court shall not exceed €5,000 per contravention.

(6) In this section, “Court” means—

- (a) the Circuit Court, where the amount of the administrative fine the subject of the appeal does not exceed €75,000, or
- (b) in any other case, the High Court.

### **EXPLANATORY NOTE:**

This allows an ISS to appeal to the Circuit Court or the High Court (depending on the quantum) a fine imposed by the Compliance Committee and makes provision for the hearing of the appeal and decision of the Court. This Head will have to be examined following the publication by the European Commission on 7 November of its Proposal for a Regulation of the European Parliament and of the Council on data collection and sharing relating to short-term accommodation rental services and amending Regulation (EU) 2018/1724 (STR Regulation) together with the Digital Services Act (DSA) which was signed into law on 27 October and came into force on 16 November. It is subject to any drafting or textual changes to be agreed between the Minister and the Attorney General. The text is being reviewed to identify any such changes that may be necessary.

## **HEAD 39 – MATTERS TO BE CONSIDERED IN DETERMINING THE AMOUNT OF FINANCIAL SANCTION**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –  
58 –

In considering the amount (if any) of any financial sanction to be imposed on an information society service under section 56 or section 57 the Compliance Committee or the Court shall take into account the circumstances of the breach or the failure to comply with the compliance notice in question, as the case may be, and may, where appropriate in the circumstances, have regard to—

- (a) the need to ensure that any financial sanction imposed—
  - (i) is appropriate and proportionate to the breach or the failure to comply with the compliance notice, and
  - (ii) will act as a sufficient incentive to ensure future compliance in respect of the requirement breached,
- (b) the seriousness of the breach,
- (c) the turnover of the information society service in the financial year ending in the year previous to the breach and the ability of the information society service to pay the amount,
- (d) the extent of any failure to comply with the compliance notice,
- (e) any excuse or explanation by the information society service for the breach or failure to comply with the compliance notice,
- (f) any gain (financial or otherwise) made by the information society service or by any person in which the information society service has a financial interest as a consequence of the breach,
- (g) the duration of the breach,
- (h) repeated breaches by the information society service,
- (i) continuation by the information society service of the breach,
- (j) the absence, ineffectiveness or repeated failure of internal mechanisms or procedures of the information society service intended to prevent breach by the information society service,
- (k) the extent to which the information society service had taken steps in advance to identify and mitigate external factors that might result in a breach,
- (l) the extent and timeliness of any steps taken to end the breach in question,
- (m) submissions by the information society service on the appropriate amount of a financial sanction,
- (n) whether a financial sanction in respect of similar conduct has already been imposed on the information society service by the Court or Compliance Committee, and
- (o) any precedents set by the Court or Authority in respect of previous breaches or failures to comply with the compliance notice.
- (p) any other factors which it considers in its absolute discretion to be relevant to the circumstances of the breach.

### **EXPLANATORY NOTE:**

This section sets out the matters to be taken into consideration by the Compliance Committee or the Court in considering the amount of the financial sanction to be imposed. This Head will have to be examined following the publication by the European Commission on 7 November of its Proposal for a Regulation of the European Parliament and of the Council on data collection and sharing relating to short-term accommodation rental services and amending Regulation (EU) 2018/1724 (STR Regulation) together with the Digital Services Act (DSA) which was signed into law on 27 October and came into force on 16 November. It is subject to any drafting or textual changes to be agreed between the Minister and the Attorney General. The text is being reviewed to identify any such changes that may be necessary.

## **HEAD 40 – PAYMENT OF FINANCIAL SANCTIONS**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

59 –

(1) The Authority shall, as soon as practicable after—

- (a) a decision to impose an administrative sanction is confirmed under section 56 (15), or
- (b) the court decides, under section 57(3)(a) to confirm the decision, or
- (c) the court decides, under section 57(3)(b) to impose a different sanction,

give the information society service concerned a notice in writing together with a copy of the Order or the decision as the case may be, requiring the information society service to pay the amount of the sanction concerned to the Authority within the period of 28 days commencing on the date of the notice.

(2) The Authority shall publish on a website maintained by the Authority such details as it considers proper concerning a decision of the Court under section 56 or section 57(3) or a decision made by the Compliance Committee pursuant to section 56(10).

(3) A sum due under this section may be recovered in any court of competent jurisdiction as a simple contract debt.

(4) All payments shall be made to the Authority under this section and shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

### **EXPLANATORY NOTE:**

This provides for the payment of financial sanctions to Fáilte Ireland by ISSs. It requires Fáilte Ireland to give the ISS notice in writing of the Order or decision requiring the ISS to pay the fine within 28 days of the notice. This Head will have to be examined following the publication by the European Commission on 7 November of its Proposal for a Regulation of the European Parliament and of the Council on data collection and sharing relating to short-term accommodation rental services and amending Regulation (EU) 2018/1724 (STR Regulation) together with the Digital Services Act (DSA) which was signed into law on 27 October and came into force on 16 November. It is subject to any drafting or textual changes to be agreed between the Minister and the Attorney General. The text is being reviewed to identify any such changes that may be necessary.

## **HEAD 41 – POWERS OF AUTHORISED OFFICERS**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

60 –

(1) Authorised officers may for the purpose of obtaining any information necessary for the performance by the Authority of any of its functions under this Part, in addition to the powers in section 41B, exercise one or more of the specified powers below:

- (a) require the information society service and any person employed in connection therewith to—
  - (i) provide to the officer any books, documents or records relating to that activity the premises which are in that person’s power or control, and to give to the officer such information as he or she may reasonably require in regard to any entries in such books, documents or records,
- (b) inspect and copy or take extracts from any such books, documents and records,
- (c) require a person mentioned in paragraph (a) to give to the authorised officer any information he or she may require in regard to the persons carrying on the activity referred to in paragraph (a) (including in particular, in the case of an unincorporated body of persons, information in regard to the membership thereof and its committee of management or other controlling authority) or employed in connection therewith,
- (d) to require a person mentioned in paragraph (a) to give to the authorised officer any other information which the officer may reasonably require in regard to the activity referred to in paragraph (a).

**Or**

Require the information society service to give to the authorised officer such assistance and information and to produce to him or her such records including but not limited to the registration number, details of the person promoting, advertising or otherwise offering of the premises, details of the advertisement of the premises, details of any lettings that have been undertaken during a certain time period that are in the information society service’s possession or control or within the information society service’s procurement, as he or she may reasonably require for the purposes of his or her functions under this Part.

**Or**

For the purpose of obtaining carrying out the functions of the Authority under this Act, the authorised officer may by notice in writing require—

- (a) an information society service to prepare and deliver to the authorised officer the following information—
  - (i) the full address including Eircode of the premises listed on the platform,
  - (ii) the name and address of the person advertising, promoting or otherwise offering the premises,
  - (iii) a statement of payments made for the letting of such premises,
  - (iv) the registration number of each such premises, and
  - (iv) such other particulars relating to all such premises as may be specified in the notice;

### **EXPLANATORY NOTE:**

This gives authorised officers specific powers in relation to ISSs. In order to identify persons using the ISS platform and verify registration numbers it is necessary to permit the request of necessary information from ISSs for the purposes of enforcement and investigation. The information sought includes the registration number, details of the person promoting, advertising or otherwise offering the premises, details of the advertisement of the premises, details of any lettings that have been undertaken during a certain time period. This Head will have to be examined following the publication by the European Commission on 7 November of its Proposal for a Regulation of the European Parliament and of the Council on data collection and sharing relating to short-term accommodation rental services and amending Regulation (EU) 2018/1724 (STR Regulation) together with the Digital Services Act (DSA) which was signed into law on 27 October and came into force on 16 November. It is subject to any drafting or textual changes to be agreed between the Minister and the Attorney General. The text is being reviewed to identify any such changes that may be necessary.

## **HEAD 42 – RESTRICTION OF APPLICATION OF CERTAIN ARTICLES OF DATA PROTECTION REGULATION**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

61 –

(1) Articles 14 (Information to be provided where personal data have not been obtained from the data subject) and 15 (Right of access by the data subject) of the Data Protection Regulation are restricted, to the extent necessary and proportionate to safeguard the effective performance by Fáilte Ireland of its functions referred to in Section 8(1)(f)(i) and (ii),(g), (h) of the National Tourism Development Authority Act 2003 where the performance of those functions give rise to the processing of personal data to which the Data Protection Regulation applies.

2) In this section, ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>47</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

### **EXPLANATORY NOTE:**

It may be necessary to restrict certain rights of data subjects (e.g. access to their information) for the purposes of certain functions (e.g. investigation) when regulating tourist accommodation including STTL. The GDPR and Data Protection Act 2018 permit such restrictions, where necessary and proportionate. Section 94 of the Data Protection Act 2018 provides for restriction of data subject rights (including to be provided with certain information and to access to their information) where a competent authority is processing data for specific purposes (e.g. the proposed powers of investigation and enforcement under the Amending Act in Fáilte Ireland’s case). However, to the extent that certain information may be collected and processed outside of the scope of Part 5 of the Data Protection Act, this is a supplementary provision to provide for the restriction of rights under the GDPR. Contact is being made with the DPC to discuss the appropriate way to address this issue.

## HEAD 43 – DATA EXCHANGE

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

62 –

(1) In this Section -

“business information” means the following information in respect of an undertaking:

- (a) the unique business identifier number;
- (b) the registered name, if any;
- (c) the business or operating name, if any;
- (d) the address (including the postcode (if any) within the meaning of section 66 of the Communications Regulation (Postal Services) Act 2011 ) at which the undertaking carries on business or ordinarily resides;
- (e) the number, if any, allocated or issued by a public body under an enactment or law of the European Union;
- (f) the number, if any, assigned in a register held or maintained by a public body under an enactment or law of the European Union;
- (g) the legal form;
- (h) in the case of a legal person, the state under the law of which the legal person was established;
- (i) such other information as may be prescribed, having regard to the relevant purpose;

“public body” means—

- (a) a Department of State,
- (b) a local authority,
- (c) a body established by any enactment.

“undertaking” means—

- (a) a natural person or partnership of natural persons engaged for gain in the provision of a service,
- (b) a body corporate,
- (c) an unincorporated body of natural persons, or
- (d) a proprietor having the same meaning as in this Act.

“relevant purpose” means –

- (a) investigation of an offence related to the Planning and Development Acts 2000-2022,
- (b) enforcement actions related to the Planning and Development Acts 2000-2022,
- (c) investigation of an offence or contravention of this Act,
- (d) enforcement actions under this Act,
- (e) enforcement for an offence or contravention of legislation governing Information Society Services, or
- (f) subject to subsection (4), processing of business information that is prescribed for the purposes of this subparagraph.

(2) For the purposes of the definition of “business information” in subsection (1), a company shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(3) A public body may disclose business information to another public body where the information is disclosed—

- (a) for the purpose of the performance of a function of the first or second mentioned public body, and
- (b) for a relevant purpose.

(4) The Authority may prescribe:

- (a) the form to be used by Local Authorities to disclose information to the Authority in accordance with subsection (3);
- (b) a relevant purpose; or
- (c) other information as business information.

(5) Without prejudice to any provision of this Act, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Authority to be necessary or expedient for the purposes of the regulations.

(6) Regulations made under paragraph (a) of subsection (4) of this section shall not be made without the consent of the Minister for Housing, Local Government and Heritage.

### **EXPLANATORY NOTE:**

This permits Fáilte Ireland to exchange data with Local Authorities, Government Departments and other public bodies, where necessary. The approach to data sharing is similar to Part 6 of the Data Sharing and Governance Act, 2019 by using the definition of “business information” and providing for the disclosure of business information which includes some limited personal information.



## **HEAD 44 – PAYMENTS MADE TO THE AUTHORITY**

To provide that –

The Tourist Traffic Acts 1939 – 2016 are amended to include a new section –

63 –

Cash shall not be accepted as a method of payment to the Authority.

### **EXPLANATORY NOTE:**

This provides that cash shall not be accepted as a method of payment to the Authority<sup>2</sup>.

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<sup>2</sup> A recent decision of the Court of Justice of the European Union in joined cases 422/19 and 423/19 Håring v Hessischer Rundfunk has confirmed that that Member States may in national legislation exclude the possibility of discharging a statutorily imposed payment obligation in banknotes denominated in euro provided this is for a public interest objective and the exclusion does not go beyond what is required to attain that objective.

**NEW SCHEDULE 1**  
**LIST OF PREMISES TO BE TRANSFERRED ONTO THE**  
**SHORT-TERM TOURIST LETTING REGISTER**

Premises referred to in section 37F:

All premises listed on the non-statutory approved list as published by the Authority on [to be confirmed] date.

See:

[https://www.failteireland.ie/FailteIreland/media/WebsiteStructure/Documents/2\\_Develop\\_Your\\_Business/4\\_Quality\\_Assurance/Q3%202022/Quarter-3-Combined-Non-Statutory-List-2022.pdf](https://www.failteireland.ie/FailteIreland/media/WebsiteStructure/Documents/2_Develop_Your_Business/4_Quality_Assurance/Q3%202022/Quarter-3-Combined-Non-Statutory-List-2022.pdf)

## **HEAD 45 – AMENDMENTS TO SECTION 32 THE TOURIST TRAFFIC ACT 1952**

### **CANCELLATION OF REGISTRATION**

To provide that –

The Tourist Traffic Act 1952 is amended

(a) By the substitution of Section 32(2) with the following paragraphs:

If at any time the Board, following an inspection of registered premises by a registration officer is of the opinion that such premises have ceased to be eligible for registration:

(a) the Board shall serve notice upon the registered proprietor that the Board is of opinion that such premises have ceased on stated grounds to be eligible for registration and that the registered proprietor may, within thirty days after service of such notice make written representations to the Board with a view to showing that such premises have not ceased to be eligible for registration;

(b) if during the said thirty days no such written representations are received by the Board, the Board shall cancel the registration;

(c) if during the said thirty days such written representations are received by the Board, the Board shall cause a second inspection of such premises to be made by an officer of the Board;

(d) if the Board, notwithstanding such second inspection and having considered the written representations received as aforesaid, remains of opinion that such premises have ceased to be eligible for registration, the Board shall cancel the registration;

(e) if the Board, as a result of such second inspection and having considered the written representations received as aforesaid, becomes of opinion that such premises have not ceased to be eligible for registration, the Board shall give notice to that effect to the registered proprietor.

(b) By the repeal of Section 32(3),

(c) By the insertion of a new Section 32(3):

In relation to sub-section (2), where an inspection has been carried out pursuant to section 41 in the 90 days prior to the Board forming its opinion pursuant to sub-section (2), it shall not be necessary for a further inspection to be carried out pursuant to sub-section (2).

(d) By the insertion of a new Section 32(4):

(a) In relation to the register of short-term tourist letting, the Board may at any time suspend the registration of the registered premises where it is of the opinion that false information was furnished either:

(i) by a proprietor in an application for registration of a premises; or

(ii) by a registered proprietor in an application for the renewal of registration of a premises.

(b) If the Board forms the opinion that false information was furnished by the registered proprietor at the time of application for registration of a premises or renewal of registration of a premises:

(i) the Board shall cause notice to be served on the registered proprietor describing the false information which in its opinion was furnished and providing that the registered proprietor may, within thirty days after service of such notice, make written representations to the Board with a view to demonstrating that no false information was furnished by the registered proprietor;

(ii) if during the said thirty days no such written representations are received by the Board, the Board shall suspend the registration;

(iii) if during the said thirty days written representations are received by the Board, and having considered the written representations, the Board remains of the opinion that false information was furnished by the registered proprietor, the Board shall suspend the registration of the relevant registered premises.

(iv) if the Board having considered the written representations becomes of the opinion that false information was not provided by the registered proprietor, the Board shall give notice to that effect to the registered proprietor;

(v) Suspension under this section of registration shall have effect from a date determined by the Board, not being earlier than fourteen days after the decision to suspend is made, and the Board shall, not later than seven days before the date so determined, serve notice on the registered proprietor that the registration will be suspended on that date.

(c) Suspension of registration under this sub-section shall continue for the duration of the premises' intended registration or until the registered proprietor demonstrates to the satisfaction of the Board that no false information was furnished by the registered proprietor in the application for registration or renewal of registration of the premises.

(d) For the purposes of this sub-section, false information shall mean information which is false in any material respect and which the registered proprietor knew to be false at the time it was furnished or was reckless as to whether it was or not.

(d) By the insertion of a new Section 32(5):

References in this section to the Board or the opinion of the Board shall be construed as references to the Board itself or to a committee established pursuant to section 23 of the 2003 Act.

### **EXPLANATORY NOTE:**

This allows inspections referred to in this section to be carried out by registration officers as opposed to "officers of the Board". Registration officer shall have the meaning given under section 41(3) and would include a service provider. It makes the section 32 inspection process consistent with that in section 30 i.e. two inspections in total, removing the requirement for a third inspection, with final inspections carried out by a Fáilte Ireland representative. It also provides for the suspension of the registration of STTL in the event that false information is provided. Finally, it provides that any reference to the "Board" should be construed to include a committee of the Board duly established pursuant to the 2003 Act.

## **HEAD 46 – AMENDMENT TO SECTION 4 OF THE TOURIST TRAFFIC ACT 1983 CIRCUIT COURT PROHIBITION ORDER**

To provide that –

The Tourist Traffic Act 1983 is amended

By the substitution of Section 4(1) with the following paragraph:

Where a person is acting in contravention of section 31A, 33, 34, 35, 36, 37, 37B, 37E, 39, 43 or 44 of the Principal Act (as amended), the Court may, on the application of the Board, by order prohibit the continuance of the contravention.

### **EXPLANATORY NOTE:**

This provides that a prohibition order may be sought for breach of section 37E (promoting, advertising or otherwise offering short-term tourist accommodation) and section 31A (failure to display a valid registration number).

**HEAD 47 – AMENDMENT TO SECTION 8 OF  
THE NATIONAL TOURISM DEVELOPMENT AUTHORITY ACT 2003  
FUNCTIONS OF THE AUTHORITY**

To provide that –

The National Tourism Development Authority Act 2003 is amended

By the insertion after Section 8(1) of the following paragraphs:

(f) to encourage compliance with the Tourist Traffic Acts 1939 to [2023] and to investigate—

(i) instances of suspected offences under the Tourist Traffic Acts 1939 to [2023] and

(ii) instances otherwise of suspected non-compliance with the Tourist Traffic Acts 1939 to [2023],

(g) to enforce the Tourist Traffic Acts 1939 to [2023] , including by the prosecution of offences by way of summary proceedings,

(h) at the discretion of the Authority, to refer cases to the Director of Public Prosecutions where the Authority has reasonable grounds for believing that an indictable offence under this Act has been committed.

**EXPLANATORY NOTE:**

This incorporates into the Act the new enforcement functions of the Authority and facilitates the delegation of such enforcement functions to the Compliance Committee.

## **NEW PART VII**

### **HEAD 48 – AMENDMENT TO SCHEDULE 5 OF SOCIAL WELFARE CONSOLIDATION ACT 2005**

To provide that –

The Social Welfare Consolidation Act 2005 is amended to include a new section –

62 –

Schedule 5 to the Social Welfare Consolidation Act 2005 is amended, in paragraph 1(4), by the insertion, after “Enterprise Ireland,” of the following:

“National Tourism Development Authority”

#### **EXPLANATORY NOTE:**

This allows Fáilte Ireland to be permitted to request data from individuals registering for the Short-Term Lets and other services as part of its registration system to utilise myGovID to authenticate people who register for Short-Term Lets and other services, and also to access the Public Service Identity Dataset, where necessary.