



# TOURIST ACCOMMODATION (OWNERSHIP) AMENDMENT ACT 1989

Act No. 14 of 1989

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An Act to amend the *Tourist Accommodation (Ownership) Act 1989*

[Assented to 8 August 1989]

**BE IT ENACTED** by the Legislative Assembly of Norfolk Island as follows —

## Short title

1. This Act may be cited as the *Tourist Accommodation (Ownership) Amendment Act 1989*.

## Commencement

2. This Act comes into operation on a date fixed by the Administrator by notice published in the Gazette.

## Principal Act

3. The *Tourist Accommodation (Ownership) Act 1989* is in this Act referred to as the Principal Act.

## Interpretation

4. Section 3 of the Principal Act is amended by inserting after the definition of “holding corporation” —

“ ‘non-resident owner’ means the same as in subsection 10A(1);”.

## New section

5. The Principal Act is amended by inserting after section 10 —

### Non-resident owners

“ **10A. (1)** In this section, ‘non-resident owner’ means —

- (a) a person who —
  - (i) is an Australian or New Zealand citizen; and
  - (ii) is not a resident, or person who is the holder of a general entry permit, under the *Immigration Act 1980*;
- (b) a corporation in which a person who is a non-resident owner holds a controlling interest; or

- (c) a corporation in which two or more persons who are non-resident owners hold in the aggregate a controlling interest,

who or which has a legal or equitable interest in one or more tourist accommodation houses and, because of that interest, is in a position to control the management of the house or houses.

(2) For the purposes of subsection (1), a person, or two or more persons in the aggregate, hold a controlling interest in a corporation if —

- (a) the person or persons are in a position to cast, or control the casting of, more than half of the maximum number of votes that might be cast at a general meeting of the corporation;
- (b) the person or persons hold more than half of the allotted share capital of the corporation (excluding any part of the allotted share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital); or
- (c) the corporation is a subsidiary corporation of a holding corporation, and the person or persons, under paragraph (a) or (b), control the holding corporation.

(3) Subject to section 12A, where the executive member receives a relevant application, the executive member shall consider whether the application might, or might if the application were granted, relate to a non-resident owner.

(4) If the executive member concludes that the application might, or might if the application were granted, relate to a non-resident owner, the executive member shall —

- (a) inform in writing the applicant of the executive member's conclusion;
- (b) give the applicant a reasonable opportunity of making representations to the executive member about that conclusion; and
- (c) consider any such representations.

(5) If, after considering any such representations, the executive member concludes that the application does not, or would not if the application were granted, relate to a non-resident owner, the executive member shall deal with the application in accordance with the *Tourist Accommodation Act 1984*.

(6) If, after considering any such representations, the executive member concludes that the application does, or would if the application were granted, relate to a non-resident owner, the executive member shall —

- (a) inform in writing the applicant of the executive member's conclusion;
- (b) give the applicant a reasonable opportunity of making representations to the executive member about whether the granting of the application would be contrary to the public interest; and
- (c) after giving such an opportunity, refer the application, together with any representations made under paragraph (b), to the Legislative Assembly.

(7) On such a referral, the Legislative Assembly shall consider the application, and any representations made under paragraph (6)(b), and shall —

- (a) if it is satisfied that the application relates to a non-resident owner and that the granting of the application would be contrary to the public interest - by resolution direct the executive member to refuse to grant the application; or
- (b) if it is not so satisfied - by resolution direct the executive member to deal with the application in accordance with the *Tourist Accommodation Act 1984*.

(8) If the Legislative Assembly, within 60 days after the referral to it of an application, does not pass a resolution under subsection (7), the Assembly shall be taken to have resolved to direct the executive member to deal with the application in accordance with the *Tourist Accommodation Act 1984*.

(9) The executive member shall comply with a direction made, or taken to have been made, under this section.”.

## **Divestment**

6. Section 11 of the Principal Act is amended by omitting from subsection (2) —

- (a) “section 4 or 10” and substituting “section 4, 10 or 10A”;
- (b) “a single owner or foreign owner” and substituting “a single owner, foreign owner or non-resident owner”; and
- (c) “the single owner or foreign owner” and substituting “the single owner, foreign owner or non-resident owner”.

**New section**

7.    The Principal Act is amended by inserting after section 12 —

**Saving for transactions occurring before 19 July 1989**

“    **12A.**    In dealing with a relevant application under section 10A, the executive member and Legislative Assembly shall not have regard to a transaction that occurred before 19 July 1989, except to the extent that the transaction, taken together with a transaction occurring on or after that date, is relevant to a matter to be determined under section 10A.”.

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Notified Gazette No. 37, 24 August 1989.

Commenced 24 August 1989 (Gazette No. 37, 24 August 1989).

This enactment amends Act No. 2 of 1989.

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