

## **DECLARED REGULATORY IMPACTS (DRI)**

### **Draft Act**

#### **Draft information**

a) Title of the draft act:

Short-Term Rental Act

b) Representative of the Applicant:

Member of Parliament Kamil Wnuk

#### **I. Introductory part**

[1] Concise description of the identified problem and proposed solutions.

Currently, significant problems exist related to short-term rental services, especially related to the offer of accommodation for tourism, accessible through popular online platforms.

The lack of regulation has the following socio-financial consequences:

- shortage of long-term rental housing,
- tourist traffic exceeding urban absorption capacity,
- breaches of public order and safety,
- the grey economy in relation to local and income taxes,
- disruption to the functioning of homeowners' associations and housing associations; the conversion of buildings from residential to hotel use.

The draft seeks to address the above-mentioned issues by granting extensive powers to local authorities to regulate and monitor short-term rental, and to a certain extent to homeowners' associations and housing associations, thereby balancing the interests of lessors and other owners of residential properties within a building where short-term rental is carried out. The project aims to foster positive relations between lessors and the local community. It does not seek to eliminate short-term rentals from the market, recognising that they serve as a valuable complement to hotel services, help to enhance a locality's appeal to tourists, and boost the income of those who make their living from tourism.

The absence of statutory regulations on short-term rental will aggravate the problems mentioned above.

[2] Have any alternatives been considered?

➤ No

The nature of the matter being regulated precludes the possibility of formulating legal solutions in legislation of a lower rank than an Act or through non-regulatory measures. The solutions set out in the draft are based on the principle of delegating powers relating to short-term rental to local authorities in a broad sense, and, in a more limited sense, to homeowners' associations and housing associations. Regulations have been introduced governing the registration of properties let on a short-term basis, and the aforementioned entities have been provided with tools to counteract the negative effects of short-term rental.

## **II. Requirements specified in Article 34(2)(3–5) of the Rules of Procedure of the Sejm [lower house of the Polish Parliament]**

[3] What are the anticipated legal consequences of the proposed solutions?

The Act will introduce short-term rental as a separate service provided under the conditions set out in the Act, by a natural person, a legal person or an organisational unit without legal personality, irrespective of the legal basis for their use of the premises,

The short-term rental service will relate to the provision, under a single contract, for a period not exceeding 30 days, of a furnished detached house or a flat, or part thereof.

The ability to rent a property that serves as the lessor's permanent residence will be limited to no more than three months in a calendar year.

Municipalities will be required to enact resolutions regulating the detailed rules on short-term rental.

Before commencing a short-term rental, the lessor will be required to register the rental, subject to a fee, in the short-term rental register maintained by the head of the district or municipality or mayor.

Where a property is rented person who does not have their permanent residence there, the consent of the homeowners' association or housing association managing the property in which the flat is situated will be required.

The Act will introduce the possibility for local authorities to inspect premises used for short-term rentals, whilst establishing mechanisms for co-operation in this regard with the police and other state bodies responsible for safety and order in premises and buildings.

Given that short-term rentals may result in increased costs relating to the operation and maintenance of the property, the Act of 15 December 2000 on housing associations and the Act of 24 June 1994 on the ownership of premises introduce the possibility of increasing such charges for lessors renting properties on a short-term basis.

A penalty will be introduced for offences relating to breaches of the Act, in the form of a misdemeanour punishable by a fine of up to PLN 50,000.

Given the need for local councils to adopt resolutions on the detailed rules governing short-term rentals, it is proposed that the Act should come into force six months after the date of its publication.

The transitional provision provides for an adaptation period of 12 months for entities that currently provide services under short-term rental conditions.

[4] What are the expected social impacts of the proposed measures?

The law will have a positive impact on social relations. It will eliminate the sources of security and order risks caused by the lack of regulations related to short-term rental and

conflicts between lessors and other owners of properties in situations where short-term rental is associated with additional nuisances.

Currently, short-term rentals are not regulated by separate regulations, and there is no database that would allow obtaining reliable data on the scope of the phenomenon.

The adoption of the Act in its proposed form will enable local authorities, by keeping a record of such activities, to obtain information on the extent of short-term rentals within their municipality. Resolutions will provide a means of addressing the effects of short-term rentals: ensuring the availability of long-term rental accommodation, improving public order and safety, and managing the flow of tourist traffic. The lessor database will improve the collection of local taxes and sanitation fees.

The draft legislation provides for supervisory powers for local authorities, co-operation with law enforcement agencies and bodies responsible for architectural and building supervision, as well as the ability to obtain data from platforms facilitating short-term rental services. The aim of these measures is to prevent disturbances to the order and security of property in which short-term rental accommodation is practised.

In addition to landlords, the regulations apply to local authorities, law enforcement agencies, bodies responsible for architectural and building supervision, lessors offering short-term rentals, online platforms, homeowners' associations, housing associations, and individuals using short-term rental services.

[5] What are the anticipated legal consequences of the proposed solutions?

The draft will have an economic impact through local changes in the attractiveness of allocating properties for short-term rental. In the absence of records, it is impossible to indicate the number thereof. Not everyone rents out property as part of a business, and some do not pay any tax at all. Only the introduction of mandatory records will make it possible to determine the scale of the phenomenon.

New record-keeping obligations and requirements relating to the running of the business itself will apply to those operating short-term rental businesses. The extent of the intervention will depend on the regulations adopted by local authorities.

[6] What are the expected financial implications of the proposed measures, in particular the impact on the public finance sector, including the state budget and the budgets of local authorities?

The entry into force of the Act will not lead to additional burdens on the State budget.

The entry into force of the Act will have financial consequences for municipal budgets.

There will be an increase in the revenue of municipalities due to the introduction of a fee for entry in the register of short-term rentals. It is not possible to estimate the increase in revenue for a specific municipality due to the lack of data on how many properties will be entered in those records. In addition, as a result of the new regulations, revenue from local and spa-town fees is expected to increase, as the collection system in the municipalities where these charges apply is being made more efficient.

The entry into force of the regulation will result in expenditure associated with the creation and maintenance of a register of short-term rentals. Due to the limited scope of the data collected in the register and the flexibility in the way it is kept, it should be considered that the costs will be covered by current budgetary expenditure, without the need to hire additional staff, and if this is the case, it will concern municipalities where a large amount of short-term rental accommodation will be registered and the increase in costs will be covered by higher registration fees.

Keeping records of properties used for short-term rentals will generate costs for local authorities. The choice of how to maintain the register has been left to local authorities, whilst the costs of maintaining it will be partly covered by fees for entries in the register, amendments to entries or removals. Having records will improve the collection of local or spa-town fees, which will also contribute to the municipal budget. It is possible that people who have previously rented out properties on a short-term basis may decide to turn this into a source of income as part of a business activity, which will have a positive impact on public finances.

Nor can we rule out a reduction in the current impact of short-term rentals, which is linked to increased costs of maintaining order and security in the local authority area. The local council will be able to use a resolution to restrict short-term rental in areas where there is a high incidence of incidents that disturb public order and peace.

[7] List of sources of financing if the draft Act entails a burden on the State budget or the budgets of local government units.

As indicated above, the source of financing will be the proceeds from registration fees and existing revenues. In the case of municipalities where there will be more properties to be recorded, the increased costs of the operation will be covered as part of the increase in revenue from the local and spa-town fees.

[8] Is the draft Act subject to the notification procedure?

Yes, because

- it contains technical provisions (Directive (EU) 1535/2015).

The draft Act contains technical regulations within the meaning of the Cabinet Regulation of 23 December 2002 concerning the manner in which the national notification system of standards and legal acts functions (Journal of Laws, item 2039; and of 2004, item 597), in so far as it concerns additional obligations for entities renting out properties. The entry into force of the legislation will result in the introduction of provisions setting out additional requirements regarding the terms and conditions of renting out properties.

### **III. Requirements specified in Article 34(2a) and (2b) of the Rules of Procedure of the Sejm**

[9] Does the draft act contain provisions specifying the rules for undertaking, conducting or terminating economic activity (Article 34(2a) of the Rules of Procedure of the Sejm)?

- Yes

The draft sets out regulations for the business activity of renting out properties. The proposal imposes new administrative obligations to the extent necessary to achieve the objective pursued. The administrative and reporting obligations relating to registration in the short-term rental register and the operation of a short-term rental service have been set at a minimum level that ensures the performance of public tasks by public authorities.

[10] Will the implementation of the draft provisions create any administrative burdens for micro, small and medium-sized enterprises (Article 34(2a) of the Rules of Procedure of the Sejm)?

➤ Yes

The Act concerns micro, small, and medium-sized enterprises. It is not possible to proportionally reduce their administrative obligations, compared to other businesses, due to the purpose of the Act. SMEs are an essential group of entities offering short-term rentals. The principle of proportionality in the imposition of obligations was taken into account throughout the drafting of the Act.

[11] Does the draft Act contain regulatory provisions or lay down requirements for the provision of cross-border services within the meaning of the Act of 22 December 2015 on the rules governing the recognition of professional qualifications acquired in the Member States of the European Union (Article 34(2b) of the Rules of Procedure of the Sejm)?

➤ No