



Hotel rules refined as new accommodation options emerge

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Thailand is one of the world's most popular travel destinations. Millions of tourists visit the country every year and almost all of them have at least one thing in common -- they need somewhere to stay.

As tourists continue to pour into the country, savvy business operators have sought to capitalise on the opportunity by providing various forms of accommodation. Small hotels and short-term rental services have become more prevalent.

Many of these new hotels or short-term rental services, however, could be deemed illegal under the Hotel Act 2004. In general, providing temporary accommodation or short-term rent for less than one month is considered a hotel business. In order to do this, a hotel licence is required.

To obtain a hotel licence, a building must meet certain requirements and must comply with relevant building control regulations (fire alarm systems, safety measures, efficient drainage and wastewater treatment systems, parking, access ways for cars, etc).

These regulations are restrictive -- many types of building, including row houses, row buildings and apartments, do not comply so they do not qualify for use as a hotel. And when operators fail to obtain a hotel licence because their building does not qualify, many continue to illegally operate a hotel business, irrespective of the legal requirements.

The operator of an unlicensed hotel business risks imprisonment for up to one year and/or a fine of up to 20,000 baht, plus a daily fine of up to 10,000 baht for as long as the violation persists, in accordance with the Hotel Act.

Aside from the Hotel Act, there are additional controls under the Building Control Act 1979. It states that any person who uses any other type of non-qualifying building and attempts to pass it off as a type of qualifying building subject to such controls, including a hotel, risks imprisonment for up to three months and/or a fine of up to 60,000 baht.

Therefore, those who operate a hotel business without the required hotel licence are in violation of two laws and face two sets of penalties.

To rectify this issue, the Interior Ministry recently issued a Ministerial Regulation Prescribing Descriptions of Other Types of Building Used for a Hotel Business Operation 2016 under the Building Control Act 1979, which came into effect on Aug 19, 2016. It allows for certain types of building to be used as a hotel after they comply with specific safety requirements or measures.

The regulation states that the use of other types of building that existed before Aug 19 can be changed to the following:

hotels providing only accommodation; and

hotels providing accommodation and a restaurant, or a place for serving or cooking food.

The application to change the use of a building must be filed within five years from the effective date of the regulation.

If alterations need to be carried out before the use of the building is changed, an application detailing the alterations must be filed within two years from the effective date of the regulation.

An additional requirement is that the total area of space in the building must not be less than 10% of the area of any floor with the largest area in the building.

The following requirements apply to a building that will be changed to be used as a hotel building:

The width of the walkway in the building must not be less than the width prescribed in the regulation, depending on the type of building;

The width and length of the ladder must be in accordance with the number prescribed by the regulation;

The loading weight in any part of the building must be in accordance with the regulation;

At least one standard fire extinguisher must be installed on each floor;

For a building that has three floors or more, the building's poles, beams, joists, floors, ladders, roof, or wall must be made of fireproof material;

For a building that has four floors or more, the description of the fire escape or ladder must be in accordance with the regulation; and

The building boundary, vertical distance of the building, space between the building and other buildings, setback of the building, and car parking lots must comply with the building control regulations that are effective at the time of construction or alteration.

Based on these requirements, temporary accommodation or short-term rental business operators who have not been complying under existing laws can now avoid heavy penalties by altering their buildings to comply with the new rules and regulations. They can also further legitimise their business by applying for a requisite hotel licence.

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