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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2022 No.**

**The Civic Government (Scotland) Act 1982  
(Licensing of Short-term Lets) Order 2022**

**Citation and commencement**

1. This Order may be cited as the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 and comes into force on 1 March 2022.

**Interpretation**

2.—(1) In this Order—

“1982 Act” means the Civic Government (Scotland) Act 1982,

“accommodation” includes the whole or any part of a premises,

“commercial consideration” includes—

- (a) money,
  - (b) a benefit in kind (such as provision of a service, or reciprocal use of accommodation),
- “excluded accommodation” means accommodation described in paragraph 1 of schedule 1,
- “excluded tenancy” means a tenancy described in paragraph 2 of schedule 1,
- “guest” means a person who occupies accommodation under a short-term let,
- “host” means a person who is the owner, tenant, or person who otherwise exercises control over occupation and use, of the accommodation which is the subject of a short-term let,
- “unique licence number” means a unique number which—
- (a) is assigned to each application or licence, and
  - (b) contains a number or letters which—
    - (i) identifies the licensing authority, and
    - (ii) is used in every licence number assigned by the licensing authority.

(2) Where the accommodation is let to more than one person under a short-term let, references in this Order to the guest are to any one of those persons.

(3) For the purposes of Article 3, a person (“A”) is an immediate family member of another person (“B”) if A is—

- (a) in a qualifying relationship with B,
- (b) a qualifying relative of B,
- (c) a qualifying relative of a person who is in a qualifying relationship with B, or
- (d) in a qualifying relationship with a qualifying relative of B.

(4) For the purposes of paragraph (3)—

- (a) two people are in a qualifying relationship with one another if they are—
  - (i) married to each other,

- (ii) in a civil partnership with each other, or
  - (iii) living together as though they were married,
  - (b) a “qualifying relative” means a parent, grandparent, child, grandchild or sibling,
  - (c) two people are to be regarded as siblings if they have at least one parent in common,
  - (d) a person’s stepchild is to be regarded as the person’s child,
  - (e) a person (“C”) is to be regarded as the child of another person (“D”), if C is being or has been treated by D as D’s child.
- (5) Schedule 1 has effect.

### **Definition of short-term let and short-term let licence**

#### **3. In this Order—**

“short-term let” means the use of residential accommodation provided by a host in the course of business to a guest, where all of the following criteria are met—

- (a) the guest does not use the accommodation as their only or principal home,
  - (b) the short-term let is entered into for commercial consideration,
  - (c) the guest is not—
    - (i) an immediate family member of the host,
    - (ii) sharing the accommodation with the host for the principal purpose of advancing the guest’s education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or
    - (iii) an owner or part-owner of the accommodation,
  - (d) the accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host or to another member of the host’s household,
  - (e) the accommodation is not excluded accommodation (see schedule 1), and
  - (f) the short-term let does not constitute an excluded tenancy (see schedule 1),
- “short-term let licence” means a licence granted for the activity designated in article 4.

### **Designation of activity**

4.—(1) The activity specified in paragraph (2) is designated as an activity for which a licence under Part 1 of the 1982 Act is required.

- (2) The activity referred to in paragraph (1) is a short-term let on or after 1 October 2022.
- (3) Accommodation that is on a single premises requires only one short-term let licence.

### **Application of Part 1 of the 1982 Act**

5. For the purposes of the licensing of the activity designated by article 4, the following have effect subject to the modifications in schedule 2—

- (a) Part 1 of the 1982 Act, and
- (b) Schedule 1 of the 1982 Act.

### **Mandatory licence conditions**

6. A short-term let licence granted by a licensing authority is subject to the conditions specified in schedule 3.

### **Transitional provision**

- 7.—(1) A relevant person does not commit an offence under section 7(1) of the 1982 Act<sup>(1)</sup> if—
- (a) before 1 April 2023, that person makes an application to the licensing authority for the grant of a licence under Part I of that Act in respect of the activity being carried on by the person, and
  - (b) that application has not yet been finally determined.
- (2) For applications received by a licensing authority prior to 1 April 2023 from a relevant person, section 3 of the 1982 Act<sup>(2)</sup> is to be read as if—
- (a) for subsection (1), there were substituted—
    - “(1) For the purpose of the discharge of their functions under this Part of this Act, every licensing authority must, subject to the following provisions of this section, reach a final decision on the application within the period of 12 months beginning on the day on which the application was made.”,
  - (b) for subsection (2), there were substituted—
    - “(2) On summary application by the licensing authority within the 12 month period referred to in subsection (1), the sheriff may, if it appears to them that there is good reason to do so, extend that period as they think fit.”, and
  - (c) for subsection (4)(a), there were substituted—
    - “(a) the 12 month period referred to in subsection (1), or”.
- (3) Paragraphs (4) to (7) apply to applications received by a licensing authority prior to 1 April 2023 from a relevant person where the licensing authority considers that use of the premises for a short-term let would constitute a breach of planning control for the purposes of the Town and Country Planning (Scotland) Act 1997<sup>(3)</sup> by virtue of section 123(1)(a) or (b) of that Act.
- (4) The licensing authority may, as soon as reasonably practicable after receipt of the application, notify the relevant person that—
- (a) the licensing authority will suspend their consideration of the application for a period of three months beginning on the date of the notice,
  - (b) the relevant person must, within that three month period, submit an application for planning permission or apply for a certificate of lawfulness of use or development which would, if granted, remedy the considered breach, and
  - (c) the relevant person must notify the licensing authority that an application has been made in accordance with sub-paragraph (b).
- (5) Where the licensing authority notifies the relevant person under paragraph (4), the licensing authority may only refuse to consider the application under paragraph 2A of schedule 1 of the 1982 Act where—
- (a) the relevant person has not submitted an application for planning permission or a certificate of lawfulness of use or development, which would remedy the considered breach of planning control, within the period of three months referred to in paragraph (4)(a), or
  - (b) the planning authority refuses the application for planning permission or a certificate of lawfulness of use or development and the relevant person does not appeal against that refusal or cannot appeal against that refusal.

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(1) Section 7(1) was relevantly amended by section 59 of the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17) and section 289G of the Criminal Procedure (Scotland) Act 1975 (c. 21).

(2) Section 3 was relevantly amended by section 172(2) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) and section 77(2) of the Air Weapons and Licensing (Scotland) Act 2015 (asp 10).

(3) 1997 c. 8. Section 123(1) was relevantly amended by section 6(2) of the Planning etc. (Scotland) Act 2006 (asp 17).

- (6) Where the licensing authority does not notify the relevant person under paragraph (4), paragraph 2A of schedule 1 of the 1982 Act does not apply.
- (7) Where the licensing authority notifies the relevant person under paragraph (4), section 3(1) of the 1982 Act applies to the application as if the 12 month period begins on the earlier of—
- (a) the date on which the relevant person notifies the licensing authority in accordance with paragraph (4)(c), or
  - (b) 1 July 2023.
- (8) For the purpose of paragraph (1)(b), an application is finally determined when—
- (a) the application is granted,
  - (b) the application is withdrawn by the relevant person,
  - (c) the licensing authority refuses to consider the application on the basis of paragraph 2A of schedule 1 of the 1982 Act,
  - (d) the application is refused by the licensing authority and the period of 28 days specified in paragraph 18(4) of schedule 1 of the 1982 Act expires without an appeal against the refusal being made to the sheriff, or
  - (e) where an appeal is made against a refusal by a licensing authority to grant the application, that appeal is disposed of.
- (9) For the purposes of paragraph (8)(e), an appeal is disposed of when—
- (a) it is abandoned by the appellant,
  - (b) a decision is made by the sheriff or a higher court and any period for making a subsequent appeal to a higher court expires without such a subsequent appeal being made, or
  - (c) no subsequent appeal is possible.
- (10) For the purposes of this article—
- “a relevant person” is a person who—
- (a) carries on the activity designated by article 4 without a short-term let licence under Part I of the 1982 Act, and
  - (b) carried on the activity before 1 October 2022,
- “a certificate of lawfulness of use or development” means a certificate under section 150 or 151 of the Town and Country Planning (Scotland) Act 1997.

### **Consequential amendments**

- 8.** Schedule 4 has effect.

St Andrew’s House,  
Edinburgh  
Date

*Name*  
A member of the Scottish Government