

EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates a “short-term let” as the use of residential accommodation provided by a host in the course of business to a guest where certain criteria are met as an activity for which a licence is required under the Civic Government (Scotland) Act 1982 (“the Act”), modifies the procedures in the Act in relation to short-term let licences, provides mandatory conditions which will be required in respect of all short-term let licences, and makes consequential amendments to a number of enactments.

Article 3 provides a definition of short-term let and excludes certain types of accommodation and certain types of tenancy (as described in schedule 1 of the Order) from that definition. Article 4 specifies that a short-term let after 1 October 2022 is an activity which requires a licence under the Act. Article 5 provides that Part 1 of the Act (including schedule 1 of the Act as introduced by section 4 of the Act) has effect, for the purposes of the licensing of a short-term let, subject to the modifications specified in schedule 2 of the Order. Article 6 provides that a short-term let licence is subject to the mandatory conditions specified in schedule 3 of the Order.

Article 7 makes transitional provision whereby the offence of operating without a licence (section 7(1) of the Act) is not committed in circumstances where a person used a property for a short-term let before 1 October 2022 and submitted an application for a short-term let licence before 1 April 2023 which has not yet been finally determined. It also provides for a procedure to be followed during the transitional period in respect of licence applications where the licensing authority considers that use of the premises for a short-term let would constitute a breach of planning control.

The provisions in Part 1 of the Act (including schedule 1) will apply to short-term let licences with the modifications set out in schedule 2 of the Order which are as follows:

Paragraph 1 provides that any standard conditions determined must not impose a limit upon the number of nights for which the premises may be used for secondary letting.

Paragraph 2 creates a procedure for an authorised officer of the licensing authority, an authorised civilian employee (as defined in section 8 of the Act) or a constable to obtain a warrant to gain entry to the premises, and includes a set of conditions of which one must be met in order for a warrant to be granted.

Paragraph 3 requires the inclusion of additional information in application forms.

Paragraph 4 enables the licensing authority to exempt premises from the requirement to have a licence for a specified period which cannot exceed 6 weeks per year. It also sets out the requirements for the licensing authority to publish and review a statement of their policy in relation to the granting of temporary exemptions and sets out what information it must include.

Paragraph 5 provides a process for the licensing authority to provide a temporary licence number to the applicant and to publicise the application.

Paragraph 6 allows the licensing authority to refuse to consider the application if it considers the use of the premises for a short-term let would breach planning control, and further sets out how this can be remedied by the applicant.

Paragraph 7 provides for additional grounds on which the licensing authority may refuse an application.

Paragraph 8 allows the licensing authority to renew a licence for longer than 3 years.

Paragraph 9 creates a process for the licensing authority to serve an enforcement notice where there has been a breach of the licence conditions, which includes setting out what constitutes the breach (or likely breach), what action can be taken to rectify or otherwise prevent the breach, and the date by which the action must be taken.

Paragraph 10 creates a simplified process for a licence holder to apply for a licence within 12 months of having surrendered an equivalent licence.

Paragraph 11 provides for the inclusion of additional information about short-term let licence applications on the public register of applications. Paragraph 11 also obliges the licensing authority to share the content of the register in relation to short-term lets with the Scottish Ministers on a quarterly basis, as well as to publish the content of the register on a website.

Paragraph 12 provides for licensing authorities to share specified information with either another licensing authority or a person who advertises short-term lets for the purposes of licensing of short-term lets and to prevent the commission of offences under section 7(1) of the 1982 Act.

Paragraph 13 sets out the process by which fees may be set by the licensing authority and the criteria it may take into account whilst doing so.

Paragraph 14 requires the licensing authority to give reasons for the issue of an enforcement notice. Paragraph 14 also obliges the licensing authority to provide reasons for the refusal of an application for a temporary exemption from the requirement to obtain a short-term lets licence or the grant of such an application subject to conditions. That has the effect of allowing an appeal against these decisions of a licensing authority under paragraph 18 of schedule 1 of the Act.

Schedule 3 of the Order sets out certain mandatory licence conditions which must be included in a short-term let licence. In addition, the licensing authority has discretion under paragraph 5(1A)(b) of schedule 1 of the Act to include other licence conditions.

Schedule 4 of the Order makes consequential amendments to:

- (a) the Antisocial Behaviour etc. (Scotland) Act 2004 in order to amend the landlord registration scheme under that Act and thereby ensure that the Tenancy Deposit Schemes (Scotland) Regulations 2011 ([S.S.I. 2011/176](#)) do not apply to short-term lets as defined by this Order;
- (b) the Housing (Scotland) Act 2006, in order to clarify that the repairing standard applies to short-term lets which are offered in respect of houses, as defined by this Order;
- (c) the Private Housing (Tenancies) (Scotland) Act 2016, in order to establish that a short-term let cannot be a private residential tenancy.

A regulatory impact assessment has been prepared in respect of this Order. A copy of it can be obtained from the Scottish Government Housing and Social Justice Directorate, Victoria Quay, Edinburgh, EH6 6QQ. A copy has also been published on the Scottish Government website at www.gov.scot.