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Local Government, Housing and Planning Committee

Report on the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) (Amendment) Order 2024



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Local Government, Housing and Planning Committee

To consider and report on matters relating to local government and planning falling within the responsibility of the Cabinet Secretary for Finance and matters relating to housing and tenants' rights within the responsibility of the Cabinet Secretary for Social Justice and matters relating to the Local Government Boundary Commission and local governance review and democratic renewal within the responsibility of the Deputy First Minister.



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Introduction

1. At its meeting on 25 June 2024 the Committee considered the following affirmative instrument:

[The Civic Government \(Scotland\) Act 1982 \(Licensing of Short-term Lets\) \(Amendment\) Order 2024](#)

2. The draft Order was laid on 16 May and originally had a reporting deadline of 24 June. However, the draft Order was then withdrawn and re-laid in order to—

” “...address an issue with the Order which has been highlighted by the legal advisers to the Delegated Powers and Law Reform Committee ... in relation to an amendment made by the above order to the Housing (Scotland) Act 2006 which could result in unintended consequences if not resolved.”

3. The draft Order was re-laid on 30 May with a revised reporting deadline of 12 September. Given the potential impact of the Order on the short-term letting sector over the busy summer period the Committee agreed to consider the re-laid Order before summer recess.

Background

4. On 22 November 2021, the Scottish Government laid the [Civic Government \(Scotland\) Act 1982 \(Licensing of Short-term Lets\) Order 2022](#) ("the Licensing Order") in the Scottish Parliament.
5. The [Policy Note](#) explains that the Order establishes a licensing scheme to "ensure short-term lets are safe and address issues faced by neighbours; and to facilitate local authorities in knowing and understanding what is happening in their area as well as to assist with handling complaints effectively."
6. The Committee took evidence on the Order in December 2021 and agreed by division to recommend to Parliament that it should be approved. The Committee published its [report on the Order](#) on 12 January 2022.
7. The Committee subsequently considered a further Order delaying the requirement for existing short-term lets owners to obtain a licence. The Committee agreed unanimously to recommend approval of that Order. The Committee published its [report on the Order](#) on 23 February 2023.
8. The Minister for Housing [wrote to the Committee on 30 January 2024](#) to inform it that "work to identify and deliver improvements to operational processes is ongoing, and I will report on these in coming months." The letter also confirmed that "at the end of February 2024 we will bring forward an affirmative Scottish Statutory Instrument (SSI) that will amend The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022."
9. The letter stated that—

” “The SSI will include provision to introduce powers enabling the transfer of short-term let licences and the option for prospective hosts constructing or converting buildings for short-term let use to apply for a provisional licence that can be confirmed once the premises are complete” and;

“We are also using the SSI to clarify the period and operation of temporary exemptions, to deliver the intention that these are for a single continuous period of up to six weeks in any 12-month period starting on the date of the temporary exemption (which is set out in the Policy Note that accompanied the original legislation). In addition, guest rooms in specific types of accommodation will be excluded, as will temporary emergency short-term foster arrangements where such arrangements are not the main residence of the foster child.”
10. However, the Minister made clear that "it is not my intention to amend the types of short-term let requiring a licence (home-sharing, home letting (includes home exchanges) and secondary letting)."
11. The Committee then received a [second letter from the Minister on 29 February](#) "to advise that we are still engaging with stakeholders about its content and refining the provision. The affirmative statutory instrument will therefore be laid slightly later than indicated."

12. The Committee then received a [third letter from the Minister on 22 April](#) stating that—

- The amending regulations would now be laid on 16 May 2024
- The next release of short-term let licensing statistics would be on 23 May.
- An update on the short-term let licensing scheme will be published before the end of June.

The Order

13. The accompanying [Policy Note](#) states that the purpose of the Order is to—
 - amend the definition of “commercial consideration” to make clear that provision of a service is no longer included in that definition.
 - exclude temporary placements for foster children where the accommodation is not their main residence.
 - provide clarity that licensing authorities can approve part of an application for a single licence for multiple premises on the same site.
 - exclude guest rooms within certain residential accommodation that are available for visiting residents.
 - clarify how temporary exemptions operate and set out transitional arrangements for some of the changes in this amendment order.
 - introduce provisional short-term let licences which can be applied for at the construction stage of new short-term let accommodation.
 - introduce provisions for the transfer of licences in certain circumstances.
 - update the list of information guests should have access to at the short-term let accommodation to include information about what to do if the carbon monoxide alarm sounds and warnings on mobile gas cabinet heaters.
 - tidy up drafting for consequential amendments.
14. The Minister for Housing [wrote to the Committee on 28 May](#) in response to a number of questions raised in correspondence including what consideration has been given to amending the licensing scheme to remove home sharing from its scope and to extending the period that temporary licences can apply for beyond the current six weeks.
15. The Minister’s letter confirms that “as the purpose of licensing is to ensure that all short-term let accommodation complies with consistent safety standards across Scotland and hosts are deemed suitable to provide them”, the Scottish Government does not intend to “alter licensing types (home-sharing, home letting and secondary letting), the core principles of licensing (mandatory and additional conditions, public scrutiny and the opportunity to object) or the delegation of powers to licensing authorities to administer local licensing schemes.”
16. The letter also confirmed that the Scottish Government would update the Committee on the implementation of short-term let licensing by the end of June. The Committee [wrote to the Minister on 6 June](#) asking if the update could be provided before this meeting and [in his response](#), the Minister informed the Committee that publication of the update would now be delayed until after the UK general election after seeking advice “in accordance with pre-election guidance.”

Consultation

17. The Policy Memorandum states that the Scottish Government “ [has consulted extensively during the development of proposals for the regulation of short-term lets.](#)”
18. In respect of this specific Order, the Policy Memorandum states that “informal engagement with stakeholders was undertaken between October 2023 and March 2024 in connection to this Amendment Order, which also takes account of representations from stakeholders since licensing commenced in October 2022.”
19. The Committee invited written comments on the Order from stakeholders before taking evidence from the Minister. Thirteen responses were received and can be accessed online via the links below.
 - [Argyll and Bute Council](#)
 - [Association of Scotland’s Self-Caterers \(ASSC\)](#)
 - [City of Edinburgh Council](#)
 - [East Lothian Council](#)
 - [Glasgow City Council](#)
 - [The Law Society of Scotland](#)
 - [Orkney Council](#)
 - [Police Scotland](#)
 - [Renfrewshire Council](#)
 - [Scottish Bed and Breakfast Association \(SBBA\)](#)
 - [Scottish Tourism Alliance](#)
 - [Short-term Accommodation Association \(STAA\)](#)
 - [Visit Scotland](#)
20. Respondents were broadly supportive of the Order’s proposed changes, although several contended that they were insufficient and that further changes were needed.

Evidence from the Minister

21. At its meeting on 25 June the Committee took evidence on the Order from the Minister for Housing and his officials. The official report of the Minister's evidence session can be accessed on the Committee's website.

Delegated Powers and Law Reform Committee Consideration

22. Notwithstanding the issue previously raised by its legal advisers, the Delegated Powers and Law Reform Committee considered the amended draft Order on 11 June and confirmed that it had [no points to raise](#) .

Conclusion

23. Following evidence, the Minister moved motion S6M-13502: That the Local Government, Housing and Planning Committee recommends that the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Amendment Order 2024 [draft] be approved.

24. **The motion was agreed to (by division, for: 4 against: 0 abstentions: 3).**

25. **The Local Government, Housing and Planning Committee recommends that the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Amendment Order 2024 [draft] be approved.**

26. Notwithstanding this recommendation, the Committee explored a number of issues raised by stakeholders with the Minister and agreed to highlight the following points in its report.

27. **The Committee welcomes the Minister's commitment to continue to engage constructively with stakeholders.**

28. **The Committee notes that the Minister has demonstrated flexibility by addressing some of the issues highlighted by stakeholders and that the Order has addressed what were described by the Minister as the more "urgent" priorities at this point. The Committee invites the Scottish Government to provide an indication of other issues it is discussing with stakeholders along with an analysis of the level of priority being given to responding to them and anticipated timescales for them to be addressed where appropriate. The Committee would also welcome confirmation of those issues raised by stakeholders that the Scottish Government does not intend to address at this time and the reasons for its decisions.**

29. **Mindful that a number of specific topics were discussed, on some of which the Minister offered to provide further information in writing, the Committee intends to consider the Official Report of the meeting when available before writing to the Minister highlighting and inviting a response to relevant points.**

30. **The Committee notes the delay in the publication of the implementation update. The Committee would welcome confirmation as soon as possible as to when the update will be published. The Committee will consider its next steps in respect of scrutiny of the short-term lets licensing regime**

more broadly once the update has been received.

