

The City of Edinburgh Council submission on The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) (Amendment) Order 2024, 28 May

The City of Edinburgh Council has not had an opportunity to consider the amendment Regulations at the relevant Committee of the Council but based on informal consultation with elected members the council would respond as follows, using the summary provided in the Policy note for ease of reference.

The Amendment Order amends the Order to:

(a.) amend the definition of “commercial consideration” to make clear that provision of a service is no longer included in that definition.

The Council has no concerns about this amendment.

(b.) exclude temporary placements for foster children where the accommodation is not their main residence

The Council supports this amendment as it does not believe the legislation should regulate use of accommodation for any foster placement.

(c.) provide clarity that licensing authorities can approve part of an application for a single licence for multiple premises on the same site

The Council has no specific concerns about this amendment but would suggest that guidance is updated for local authorities to illustrate circumstances where it would be appropriate to exercise this discretionary power.

(d.) exclude guest rooms within certain residential accommodation that are available for visiting residents

The Council supports this amendment as it does not believe the legislation should regulate use of accommodation in this scenario provided there is no commercial consideration for use of the room.

(e.) clarify how temporary exemptions operate and set out transitional arrangements for some of the changes in this amendment order

The Council has received legal advice that interpreting the original provisions of the 2022 Licensing order to give effect to the stated policy intention of a single exemption of no more than 6 weeks in any 12 months period was not lawful. The Council welcomes the amendment in addressing that drafting issue but would make the point that it is not immediately obvious what the rationale of restricting the number of periods within a 12-month period brings. The more important factor is the 6-week limit.

(f.) introduce provisional short-term let licences which can be applied for at the construction stage of new short-term let accommodation.

(g.) introduce provisions for the transfer of licences in certain circumstances

The Council does not support the introduction of provisional licences or transfer of licences and believes this wholly unnecessary. It introduces concepts into the 1982 Act from the Licensing (Scotland) Act 2005 without the other provision of the 2005 Act which run alongside these.

The City of Edinburgh Council would make the point that further piecemeal amendment of the 1982 Act is unhelpful. It is not fair on other licence types within the 1982 Act that they are not afforded the same provisions.

As far back as the consideration of the Air Weapons and Licensing (Scotland) Act 2015 the Council has argued that 1982 Act has served it's purpose well but is in need of modernisation rather than continued amendment via a series of primary or secondary legislation.

The introduction of further amendments to the 1982 Act, unique to STL, adds to the complexity of operating licensing systems by a local authority. The Council is not persuaded that the circumstances of operators of Short Term Let Operators justify these unique measures when compared to the ongoing circumstances of many thousands of other businesses licensed under the 1982 Act.

Finally, it is pointed out that in cases where there is sale of an ongoing business or change of ownership of the trading body, that there are clear options to either obtain a temporary licence to allow trading to continue pending determination of a fresh licence application or alternatively the provisions of Paragraph 8(4) or 10 of Schedule 1 of the 1982 Act.

(h.) 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.

The Council supports this amendment.

(i.) tidy up drafting for consequential amendments

The Council supports this amendment.