

# Local Government, Housing and Planning Committee

## 5<sup>th</sup> Meeting, 2023 (Session 6)

Tuesday 21st February 2023

### SSI cover note for: The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) (Amendment) Order 2023

#### Background

1. On 18 January 2023 the Scottish Government laid the following affirmative instrument:

- [Civic Government \(Scotland\) Act 1982 \(Licensing of Short-term Lets\) \(Amendment\) Order 2023](#)

2. The Order amends the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 ("the Licensing Order") in the Scottish Parliament, which gave effect to the Scottish Government's proposals for the licensing of short-term lets.

3. The policy note to that Order explained that it established 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."

4. A majority of members of the Committee agreed to support that Order and it was subsequently approved by the Parliament.

5. On 7 December 2022 the Scottish Government wrote to the Committee advising it that it planned to delay the requirement for existing short-term let hosts to obtain a license from 31 March 2023 to 30 September 2023. It indicated that an affirmative instrument would be laid in January to give effect to this delay. The letter further noted that new hosts will still have to obtain a licence before they can start taking bookings or receive guests. The letter explained the justification for the delay:

“This is a one-off 6 month extension recognising the wider economic circumstances of the cost of living crisis that is placing pressure on existing short-term let hosts and businesses at a time when they are organising and budgeting for work to comply with the new licensing requirements.”

6. The letter also notes that the proposed review of the licensing scheme, scheduled for next summer, may need to be re-scheduled in light of this delay.
7. A copy of the letter can be accessed via the following link—

[Correspondence from the Cabinet Secretary for Social Justice, Housing and Local Government](#)

8. The [Civic Government \(Scotland\) Act 1982 \(Licensing of Short-term Lets\) \(Amendment\) Order 2023](#), under consideration today, if approved, will give effect to the delay.

## **Delegated Powers and Law Reform Committee consideration**

9. At its meeting on 24 January 2023 the Delegated Powers and Law Reform Committee considered the Order and determined that it did not need to draw the attention of the Parliament to the instruments on any grounds within its remit. However, Oliver Mundell MSP made the following remarks about the Order:

“In relation to the second instrument, on short-term lets, I want to put it on record that, although I will support it and I recognise that the six-month extension will make a big difference to a number of individuals, it will not solve all the problems. The need for the instrument could have been avoided if concerns that were raised by the Short Term Accommodation Association and other industry stakeholders had been taken into account when the licensing scheme was first proposed. I therefore think that the delays and challenges that we are now seeing were entirely predictable, and that the Scottish Government needs to refocus its efforts on rebuilding relationships with stakeholders.”

## **Local Government, Housing and Planning Committee consideration of the Order**

10. Subsequent to receipt of the letter from the Scottish Government with regard to the proposed delay the Committee agreed to invite written views on the impact of the delay. Responses from local authorities can be accessed via the following link—

- [Responses from Local authorities](#)

11. In addition, the Committee received the following responses—

- [Submission from PLACE Edinburgh](#)
- [Submission for the Association of Scotland’s Self-Caterers](#)

- [Submission from Visit Scotland](#)
- [Submission from City of Edinburgh Council](#)
- [Submission from COSLA](#)
- [Submission from Festivals Edinburgh](#)

12. The Committee has until 7 March 2023 to consider the instrument.

13. The Committee held an initial evidence session with stakeholders on the Order at its meeting on 7 February 2023. The Official Report of that meeting can be accessed via that link below:

<https://www.parliament.scot/chamber-and-committees/official-report/search-what-was-said-in-parliament/LGHP-07-02-2023?meeting=14142&iob=128113>

14. This is the Committee's final evidence session on the instrument.

15. At the meeting, the Committee will take evidence from the Cabinet Secretary for Social Justice, Housing and Local Government on the Order.

16. It will then debate the following motion:

S6M-07566 —That the Local Government, Housing and Planning Committee recommends that the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) (Amendment) Order 2023 be approved.

17. The Committee must decide whether or not to agree to the motion, and then report to Parliament.

18. Further information on the Order can be found in the Annex below.

## Annex

# The Civic Government (Scotland) Act 1982 (Licensing of Short term Lets) (Amendment) Order 2023

<b>Title of Instrument:</b>	<a href="#">Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) (Amendment) Order 2023</a>
<b>Type of Instrument:</b>	Affirmative
<b>Laid Date:</b>	18 January 2023
<b>Circulated to Members:</b>	20 January 2023
<b>Meeting Date:</b>	21 February 2023
<b>Cabinet Secretary to attend meeting:</b>	Yes
<b>Motion to approve:</b>	S6M-07566
<b>Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee?</b>	No
<b>Reporting deadline:</b>	7 March 2023

## Purpose

19. The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 introduces a licensing regime for the short-term let of residential accommodation. Article 7 of the Order makes a transitional provision whereby the offence of operating without a licence (under section 7(1) of the Civic Government (Scotland) Act 1982) is not committed in circumstances where a person used a property for a short-term let before 1 October 2022 ("an existing operator") and submitted an application for a short-term let licence before 1 April 2023 which has not yet been fully determined.

20. This Order extends the date for existing operators to apply for a licence by 6 months from 1 April 2023 to 1 October 2023.

21. A copy of the Explanatory Notes and the Policy Notes are included below.

## Procedure for Affirmative instruments

22. The draft **Order** was laid on 18 January 2023 and referred to the Local Government, Housing and Planning Committee. The Order is subject to affirmative procedure (Rule 10.6). It is for the Local Government, Housing and Planning Committee to recommend to the Parliament whether the Order should be approved. The Cabinet Secretary for Social Justice, Housing and Local Government, Shona Robison has, by motion S6M-07566 (set out in the agenda), proposed that the Committee recommends the approval of the Order.

## Recommendation

23. The Committee must decide whether or not to agree to the motion, and then report to Parliament accordingly, by 7 March 2023.

## Scottish Government Explanatory Note

24. The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 introduces a licensing regime for the short-term let of residential accommodation. Article 7 of the Order makes a transitional provision whereby the offence of operating without a licence (under section 7(1) of the Civic Government (Scotland) Act 1982) is not committed in circumstances where a person used a property for a short-term let before 1 October 2022 (“an existing operator”) and submitted an application for a short-term let licence before 1 April 2023 which has not yet been fully determined.

25. This Order extends the date for existing operators to apply for a licence by 6 months from 1 April 2023 to 1 October 2023.

26. The licensing authority has 12 months within which to determine an application for a short-term let licence. Where an existing operator applies for a short-term let licence, the licensing authority may notify the existing operator that they will suspend their consideration of the application for 3 months to enable them to apply for planning permission to use of the property for a short-term let. In those circumstances the 12 month period will commence on the earlier of the date on which the existing operator notifies the licensing authority that a planning application has been made, or 1 July 2023. This Order extends the latest date on which the 12 month period will commence from 1 July 2023 to 1 January 2024.

## Scottish Government Policy Note

### POLICY NOTE

### THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS) (AMENDMENT) ORDER 2023

### SSI 2023/XXX

27. The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) (Amendment) Order 2023 (“the Licensing Amendment Order”) is made by Scottish Ministers in exercise of the powers conferred by sections 3A, 44(1)(b), (2)(a), (b) and

(d), and 136(2) of the Civic Government (Scotland) Act 1982 (“the 1982 Act”), and all other powers enabling them to do so. This instrument is subject to affirmative procedure at the Scottish Parliament. Purpose of the instrument.

28. The Licensing Amendment Order amends The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (SSI 2022/32) (“the Licensing Order”) to extend the transitional arrangements for existing hosts applying for a short-term lets licence, giving them an additional 6 months to apply. This extension is in recognition of the challenges faced by businesses during the cost of living crisis. Policy Objectives

29. The Licensing Order establishes a licensing scheme for short-term lets to be managed and operated by licensing authorities. The Licensing Order includes a definition of short-term let, sets out the activity to be licensed and the mandatory conditions which licensing authorities must apply across Scotland. The Licensing Order requires local authorities to establish a licensing scheme in their areas for all short-term lets by 1 October 2022. Under transitional provisions, existing hosts operating at 1 October 2022 are required to apply for a licence before 1 April 2023 but can continue operating whilst their licence application is being determined.

30. The Licensing Amendment Order extends the transitional provisions for existing hosts, within Article 7 of the Licensing Order, by 6 months. No changes are made in respect of new hosts (see Short term lets - licensing scheme part 1: guidance for hosts and operators for definitions of new and existing hosts).

31. This extension to the transitional provisions gives existing hosts additional time to apply for a short-term let licence in recognition of the wider cost of living crisis that is placing pressure on existing hosts and businesses. This will give businesses more time to spread the cost of the licence fee, and any necessary work to secure compliance with mandatory conditions. Additional time will also assist those businesses who are facing difficulties in procuring contractors to carry out necessary work such as gas safety checks, and energy performance assessments to obtain an EPC.

32. The effect of the changes in this instrument are that existing hosts must apply for a licence before 1 October 2023 in order to continue to operate whilst their application is being determined, as allowed by the transitional provisions (previously they had to apply for a licence before 1 April 2023).

33. Consequentially, the deadline for all short-term lets to be licensed is 1 January 2025 (previously 1 July 2024) – this being the latest period at which a licence application from an existing host can be determined by the licensing authority.

34. Licensing authorities have 12 months to determine applications from existing hosts made during the transitional period. Licensing authorities also have powers to suspend consideration of applications by existing hosts during the transitional period where they consider that the use of the premises would be a breach of planning control.

35. Where licensing authorities exercise this power, the suspension lasts for a period of three months beginning on the date notice was given to the host (notice must be given as soon as reasonably practicable).

36. Licensing authorities have 12 months from the date the relevant person notifies the licensing authority that a planning or CLUD application has been made to determine the application or from 1 January 2024, whichever is the earlier (previously 1 July 2023). This means that any such applications must be determined by 1 January 2025 at the latest (previously 1 July 2024). Consultation

37. The Scottish Government has consulted extensively during the development of proposals for the regulation of short-term lets. Details can be found here: Short-term lets: regulation information - gov.scot ([www.gov.scot](http://www.gov.scot))

38. The Licensing Order was approved by Parliament in January 2022 and came into force on 1 March 2022. Updated licensing guidance was prepared in consultation with stakeholders and published in March 2022. Impact Assessments

39. The Scottish Government has conducted pre-screening or full impact assessments, for: Children's Rights and Wellbeing (CRWIA); Equalities (EQIA); Data Protection (DPIA); Fairer Scotland Duty; Island Communities (ICIA); and a Strategic Environmental Assessment (SEA). These can be found in the 2020 consultation report. Financial Effects

40. An updated Short-term lets: licensing scheme and planning control area legislation - Business and Regulatory Impact Assessment (BRIA) was published in November 2021 to accompany the laying of the Licensing Order and Control Area Amendment Regulations. Scottish Government Local Government and Housing Directorate