

LICENSING OF SHORT TERM LETS

**Report by Clerk, Scottish Borders Civic Government Licensing
Committee**

CIVIC GOVERNMENT LICENSING COMMITTEE

28 February 2022

1. PURPOSE AND SUMMARY

- 1.1 The purpose of this report is to advise Members of the impending introduction of the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022 which will make the use of accommodation for a short term let an activity for which a licence is required, to summarise the licensing requirements and to advise of the work to be undertaken to ensure that arrangements are in place to meet the legal requirements of the order.**

2. RECOMMENDATION

2.1 It is recommended that the Committee notes:

- (a) the requirements contained in the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022 which will make the use of accommodation for a short term let an activity for which a licence is required;**
- (b) the particular licensing requirements;**
- (c) that officers will ensure that arrangements are in place to meet the legal requirements of the order; and**
- (d) That further reports will be submitted to this Committee regarding detailed requirements for approval.**

3. BACKGROUND

- 3.1 Section 44 of the Civic Government (Scotland) Act 1982 ("the 1982 Act") permits the Scottish Ministers to designate an activity as an activity for which a licence shall be required. The Scottish Ministers have laid before the Scottish Parliament the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022 ("the Order"). The Order was approved by the Scottish Parliament on 19 January 2022.
- 3.2 The effect of the order is that with effect from 1 October 2022 the use of accommodation for short term let is an activity for which a licence is required under the 1982 Act.

4. REPORT

- 4.1 The Order defines a "short term let" as: -

the grant of an agreement in the course of business for the use of residential accommodation (or a part of the accommodation) by a guest where all of the following criteria are met:-

- (a) the guest does not occupy the accommodation as the guest's only or principal home.
- (b) the agreement is entered into for commercial consideration.
- (c) the guest is not –
 - (i) an immediate family member of a person granting the agreement,
 - (ii) sharing the accommodation with a person granting the agreement for the principal purpose for facilitating the provision of work or services by the guest to that person or other members of the household, or
 - (iii) sharing the accommodation with a person granting the agreement 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.
- (d) the accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the person who is granting the agreement or to another member of that person's household, and
- (e) the accommodation is not excluded accommodation (as defined in Schedule 1 to the Order and which includes hotels, boarding houses and guest houses)

- 4.2 Any short term let licence granted by the Council will be subject to mandatory conditions as set out in Schedule 3 of the Order. In addition, the Council can apply its own standard conditions to all licences granted or specific conditions on any particular licence.

- 4.3 In terms of timescales, all new short term lets must apply for a licence on or after 1 October 2022. Existing short term lets have until 1 April 2023 to apply for a licence. The Council must consider an application for a short term let licence within a period of six months from receiving the application and determine the application within twelve months. This means that all short term lets should be licensed by 1 April 2024.
- 4.4 With some amendment, the provisions of the 1982 Act which the Committee is familiar with apply to the grant and renewal of licences.
- 4.5 The foregoing is a brief summary of the new legislative requirements in respect of short term lets. Work will be required in respect of:-
- (i) Application forms and information for residents and neighbours,
 - (ii) Types of Licences,
 - (iii) General Policies,
 - (iv) Licence duration and renewal policies,
 - (v) Overprovision policy statement,
 - (vi) Temporary exemptions and temporary licence policies,
 - (vii) The setting of fees,
 - (viii) Setting additional licence conditions,
 - (ix) The processing and determination of applications,
 - (x) Enforcement policies,
 - (xi) Creating a register of short term lets.
- 4.6 Detailed Supplementary Guidance for licensing authorities is being prepared by the Scottish Government. Similar guidance is being prepared for hosts and operators of short term lets.
- 4.7 To ensure that arrangements are in place to meet the legal requirements of the Order relevant officers from Legal and Licensing will assess the requirements and prepare reports on the matters identified at paragraph 4.5 for consideration and approval of this Committee.

5. IMPLICATIONS

5.1 Financial

There are no costs attached to any of the recommendations contained in this report.

5.2 Risk and Mitigation

The information provided within this report ensures transparency and helps to mitigate reputational risk to the Council in carrying out its functions as Licensing authority.

5.3 Equalities

It is anticipated that there will be no adverse impact due to race, disability, gender, age, sexual orientation or religious belief arising from the proposals in this report.

5.4 Acting Sustainably

There are no economic, social or environmental effects as a result of the proposals contained in this report.

5.5 Carbon Management

There is no impact on the Council's carbon emissions as a result of the proposals contained in this report.

5.6 Rural Proofing

Not applicable as although this is a legislative requirement a new policy is not being proposed at this stage.

5.7 Change to Scheme of Administration or Scheme of Delegation

No change to either the Scheme of Administration or the Scheme of Delegation as a result of the recommendations in this report.

6. CONSULTATION

The Director (Finance & Corporate Governance), the Monitoring Officer/Chief Legal Officer, the Chief Officer Audit and Risk, the Director (People Performance & Change), the Clerk to the Council and Corporate Communications are being consulted and any comments received will be incorporated into the final report.

Approved by

Nuala McKinlay
Clerk, Scottish Borders Civic Government Licensing Committee

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Background Papers: None

Previous Minute Reference: None

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