
EXPLANATORY NOTE

(This note is not part of the Order)

The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (“the 2022 Order”) introduced a licensing regime for the short-term let of residential accommodation. This Order amends the 2022 Order which in turn modifies the Civic Government (Scotland) Act 1982. This ensures that the short-term let licensing regime is contained wholly within the 2022 Order.

Article 2(2)(a) amends the definition of commercial consideration to remove the provision of a service as a form of commercial consideration.

Article 2(2)(b) amends the definition of “excluded tenancy” at sub-paragraph (1) to provide that a person’s foster child is treated as the person’s child. A foster child is therefore classed as an immediate family member of the host for the purposes of the definition of “short-term let” in article 3 of the 2022 Order and not a guest in a short-term let.

Article 2(3) amends article 4 of the 2022 Order to give a licensing authority a discretion, where a short-term let licence application is made in respect of multiple accommodation situated on a single premises, to grant the licence in respect of some or all of that accommodation.

Article 2(4) amends paragraph 1 of schedule 1 of the 2022 Order to ensure that guest rooms provided in residential accommodation where personal care is provided, guest rooms in hospitals, guest rooms in nursing homes and guest rooms in sheltered housing are all classed as excluded accommodation for the purposes of the short-term let licensing regime.

Article 2(5) provides definitions of sheltered housing and vulnerable adult for the purposes of the amendments made in article 2(4).

Article 2(6) amends paragraph 6 of schedule 2 of the 2022 Order (which in turn modifies schedule 1 of the 1982 Act) to clarify that a temporary exemption from the need to obtain a short-term let licence may be granted for no more than three separate periods which amount in total to no more than 6 weeks in one calendar year.

Article 2(7) inserts new provision after paragraph 9 of schedule 2 of the 2022 Order (and in turn inserts paragraphs 7A and 7B into schedule 1 of the 1982 Act). New paragraph 7A introduces a procedure whereby an application can be made to a licensing authority for a provisional short-term let licence in relation to premises which have yet to be, or are in the course of being, constructed. The provisional short-term let licence application is processed in the same manner as a short-term let licence application but where a provisional licence is granted, it is of no effect until it has been confirmed by the licensing authority. A provisional short-term let licence is revoked if it is not confirmed within 3 years of being granted, unless that period is extended by the licensing authority.

Article 2(8) inserts new provision after paragraph 10 of schedule 2 of the 2022 Order (and in turn inserts paragraph 9A into schedule 1 of the 1982 Act). New paragraph 9A introduces a procedure whereby a short-term let licence holder can apply to the licensing authority to transfer the licence into the name of a third party (the transferee).

Article 2(9) amends paragraph 12 of schedule 3 of the 2022 Order. Schedule 3 of the 2022 Order specifies mandatory conditions for short-term let licences and paragraph 12 of schedule 13 specifies information which must be displayed in the premises. Article 2(9) provides that information about action to be taken when the carbon monoxide alarm sounds and information about the operation and movement of mobile gas cabinet heaters must be displayed in the premises.

Draft Legislation: This is a draft item of legislation and has not yet been made as a Scottish Statutory Instrument. This draft has been replaced by a new draft, The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Amendment Order 2024 ISBN 978-0-11-106023-0

Article 3 amends section 12(1) of the Housing (Scotland) Act 2006 to make it clearer that the repairing standard in Part 1 of that Act applies to short-term lets. The repairing standard applies to any tenancy of a house let for human habitation and a short-term let is defined as a tenancy under section 12(3) (as inserted by the 2022 Order).

Article 4 makes transitional provision in relation to article 2(3) and (6). Article 4(1) provides that the licensing authority's power to grant one licence for multiple accommodation on a single premises applies only to an application made on or after the day on which this Order comes into force. Article 4(2) provides that the new rule on temporary exemption applies only to an application for a temporary exemption made on or after the day on which this Order comes into force. Article 4(3) provides that periods of temporary exemption prior to the day on which this Order comes into force are not to be taken into account for the purposes of determining whether the temporary exemption applied for would breach the rules that there must be no more than three separate periods of exemption within one calendar year and there must be no more than 6 weeks of temporary exemption within one calendar year.