

# Item: 7

**Licensing Committee: 22 June 2022.**

**Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 – Temporary Licences.**

**Joint Report by Corporate Director for Strategy, Performance and Business Solutions and Corporate Director for Neighbourhood Services and Infrastructure.**

## **1. Purpose of Report**

To advise of the availability and operation of temporary licences for short-term lets.

## **2. Recommendations**

The Committee is invited to note:

### **2.1.**

That mandatory licensing of short-term lets will be introduced from 1 October 2022.

### **2.2.**

That temporary licences may be granted for short-term lets for a period not exceeding six weeks.

### **2.3.**

That mandatory licence conditions will apply to temporary licences for short-term lets.

## **3. Legislative Background**

### **3.1.**

Mandatory licensing of short-term lets in Scotland will be introduced from 1 October 2022 through the implementation of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (“the Order”) which amended the Civic Government (Scotland) Act 1982 (“the Act”). The Act and the Order are published at [Act and Order](#). The Scottish Government’s Guidance for (1) Hosts and Operators is published at [Guidance for Hosts and Operators](#) and for (2) Licensing Authorities, Letting Agencies and Platforms is published at [Guidance for Licensing Authorities](#).

### **3.2.**

“Short-term let” means the use of residential accommodation provided by a host in the course of business to a guest, where all of a number of criteria are met. It

includes home sharing, home letting, both home sharing and home letting and secondary letting of a separate premises.

### **3.3.**

From 1 October 2022, new hosts and operators will require to have a licence. This means that, if they were not using their premises to provide short-term lets before 1 October 2022, they will not be permitted to take bookings or receive guests until they obtain a licence. If hosts and operators have already been using their property to provide short-term lets before 1 October 2022, they will have until 1 April 2023 to apply for a licence and will be able to operate in the meantime by continuing to advertise and promote their premises, take bookings and receive guests while their application is processed. All hosts and operators must be licensed by 1 July 2024.

### **3.4.**

Paragraph 7 of Schedule 1 to the Act provides that licensing authorities may grant temporary licences for activities under the Act, which will have effect for a period not exceeding 6 weeks. The Council generally grants temporary licences for public entertainment (usually funfairs) and for operation of temporary markets, but temporary licences can be applied for in respect of any of the activities licensed by the Council in terms of the Act.

## **4. Principle of Temporary Licences**

### **4.1.**

The Scottish Government's principal policy intention is to ensure that all premises used for short-term lets meet essential safety standards. Mandatory licence conditions are prescribed by Article 6 of, and Schedule 3 to, the Order to address that policy intention.

### **4.2.**

Scottish Government Guidance suggests that temporary licences could be used to facilitate those who are interested in trying out home sharing or home letting to do so by making an application for a temporary licence before deciding whether or not they wish to do so permanently, requiring a full licence application.

### **4.3.**

Scottish Government Guidance expects licensing authorities to develop and publish a policy setting out:

- The licensing authority's criteria for issuing temporary licences.
- The fees payable.
- Any additional conditions which apply (in addition to the mandatory conditions which apply to all licences, including temporary licences).

#### **4.4.**

Insofar as the criteria for issuing temporary licences is concerned, in the first instance, any application for a temporary short-term let licence will be treated in the same manner as an application for a permanent licence. This approach is necessary, because temporary licences are subject to the same mandatory conditions as permanent licences. Information about mandatory licence conditions is included in a separate report to this Committee on Licence Conditions.

### **5. Temporary Licence Conditions**

Paragraph 7 of Schedule 1 to the Act provides that licensing authorities may grant temporary licences subject to such conditions as they think fit. In practice, temporary licences will be issued subject to conditions similar to those for permanent licences and may also be tailored to suit the specific application, for example in relation to the operation of a funfair. In respect of short-term lets, Scottish Government Guidance is clear that they expect licensing authorities to issue temporary licences subject to the same mandatory licence conditions prescribed by Article 6 and Schedule 3 of the Order. This would seem appropriate when trying to facilitate a policy intention of addressing essential safety standards of premises. Temporary licences for short-term lets will, therefore, be granted subject to the same mandatory conditions as those for permanent licences. Information about mandatory licence conditions is included in a separate report on Licence Conditions.

### **6. Consultees**

Paragraph 7 of Schedule 1 to the Act provides that licensing authorities must consult the Chief Constable and Scottish Fire and Rescue Service in respect of an application for a temporary licence in respect of premises. In practice, the Council's services in relation to Environmental Health, Building Standards, Planning and any other relevant services will also be consulted to facilitate the policy intention of addressing essential safety standards of premises. This is in line with the procedure adopted for other types of temporary licence, including for funfairs and markets.

### **7. No Requirement for Public Notice**

Paragraph 7 of Schedule 1 to the Act specifies that legislative provisions about public notice of applications do not apply to applications for temporary licences. Where an application for permanent licence is made in respect of the same activity, public notice will require to be given in accordance with the provisions of the Act.

### **8. Duration of Temporary Licences**

Paragraph 7 of Schedule 1 to the Act provides that a temporary licence shall not be capable of being renewed but, where the holder of or the applicant for a temporary licence has also made an application for a permanent licence in respect of the same activity, the temporary licence, if granted, shall continue to have effect until the application for permanent licence has been finally determined, including any appeal through the courts in accordance with the provisions of the Act.

## **9. Application Fees**

### **9.1.**

Applicants for temporary licences will require to pay a non-refundable application fee. Licensing authorities are required to recover the costs of processing applications through fees, so even if an application was not granted, the costs of processing would still require to be met.

### **9.2.**

Although a temporary licence would only be granted for a period of up to six weeks, the work for the licensing authority in processing applications is the same as that required for processing applications for permanent licences.

### **9.3.**

A separate report is being submitted to the Committee in respect of application fees for the short-term lets licensing scheme, including temporary licences.

## **10. Application Requirements**

Applicants for temporary licences will be required to submit the same documentation as for permanent licences, being:

- Completed application form (which will be published on the Council's website).
- All documentation detailed in the Checklist attached to the Council's Guidance which will be published on its website, to ensure compliance with mandatory conditions, including:
  - Floor plans.
  - Completed Declarations by owners of the short-term let premises.
- Application fee.

## **11. Time Period for Determination of Temporary Licences**

### **11.1.**

Where an application for temporary licence indicates that the applicant will be able to comply with the conditions of the licence and no adverse comments are received from consultees, processing will normally be completed within 42 days from the date of valid application. Decision-making powers are delegated to the Solicitor to the Council in these circumstances.

### **11.2.**

Conversely, where an application indicates that an applicant will not be able to comply with the conditions of the licence or adverse comments are received from consultees and cannot be remedied by agreement between the parties, the application, after processing, will be referred to the Council's Licensing Committee for determination at a scheduled meeting.

## **12. Financial Implications**

The Council will receive application fees as a result of the introduction of mandatory licensing of short-term lets, including temporary licences. It is anticipated that the licensing authority will receive several hundred applications for permanent licences. Possible numbers of applications for temporary licences are unknown at the time of preparation of this report.

## **13. Legal Aspects**

The legal aspects are contained within the body of this report.

## **14. Contact Officers**

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