

T: 0300 244 4000
E: scottish.ministers@gov.scot

Ariane Burgess MSP, Convener
Local Government, Housing and Planning
Committee

By email to: localgov.committee@parliament.scot

28 June 2023

Dear Convener,

Following the committee's scrutiny of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) (Amendment) Order 2023 earlier this year, I am writing to provide an update on the implementation of short-term let licensing across Scotland.

On 1 March 2023 the Scottish Parliament approved the above amendment, which extended the application deadline for existing hosts¹ by six months until 30 September 2023. From 1 October 2023, existing hosts will only be able to continue operating (without a full licence) if their license application has been received and is under consideration by the relevant licensing authority.

Marketing

During March 2023, we ran the second phase of our digital marketing campaign to raise awareness of the new licensing requirements, including the revised deadline date. We plan to undertake a further phase of marketing activity before the above deadline. We have also made our campaign creative materials available to local authorities, tourism stakeholders and our partners, such as Visit Scotland, so they may supplement this awareness activity through their own digital channels and local campaigns. Further to this we are engaging with SPICE to support its production of a spotlight briefing about short-term let licensing.

Application numbers

Local licensing schemes have been operational since last October and licensing authorities continue to tell us they are receiving, processing and granting licensing applications. While there was a noticeable slow-down in numbers at the point Parliament approved the extension, the flow of applications from existing hosts is expected to rapidly increase nearer to the deadline. As I have highlighted above, if they apply before 1 October 2023, existing hosts can continue to operate while their application is being determined.

¹ Those hosts that were operating their accommodation as short-term lets prior to 1 October 2022
Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

Processing times

Under the legislation, licensing authorities have up to 12 months to process applications from existing hosts and this can be extended by the courts for individual cases where there are good reasons to do so. If a licensing authority does not determine a licensing application² within 12 months or apply to a court for an extension to continue its consideration, the application will be deemed to be granted for the period of one year. These provisions should provide assurance to the sector that they can continue to accept bookings and receive guests during this transitional period for existing hosts. I do not envisage the vast majority of cases will require the full 12 months processing time; I am aware that, where necessary to do so, licensing authorities have recruited and trained additional workforce capacity to manage the volumes of applications, and are endeavouring to process applications as quickly as possible. This will be aided by the ongoing development of an automated Police Scotland IT system that can process the majority of fit and proper person checks for licensing authorities to provide a more timeous response.

Official Statistics

I am pleased to report that we are in the process of developing a new quarterly statistical publication on short-term let licensing applications. These official statistics will provide valuable insight not only on the number of applications received, but the different types of applications (i.e. existing/new operators), types of short-term lets (i.e. home sharing/ home letting/ secondary letting), types of premises (houses/ flats/ unconventional dwellings), processing times³, the application status, outcomes, and reasons for refusals/ other information. We expect to publish the first return in August, with quarterly publications thereafter.

Tourism / Self-catering, B&B and Guest House data

There is no single official data source that fully captures the size of the short-term lets sector, as a significant number of businesses are not registered for VAT and/or PAYE and therefore do not feature in official statistics on registered businesses in Scotland. The licensing scheme and planned official statistics will provide further insights into the sector. In the meantime however, alternative data sources can help provide evidence, alongside wider contextual data.

- There has been significant growth in the number of properties being used for short-term lets over the last decade, supported by the growth of online short term rental booking platforms such as Airbnb. While there is currently no single data source that fully captures the size of the sector, the latest available data from the non-domestic rates (NDR) valuation roll shows the number of self-catering premises in Scotland in April 2023 (18,430) was up 93% from the level in April 2010⁴ (please note that this does not capture businesses who operate from premises liable for council tax rather than NDR). Pre-pandemic data on Airbnb listings indicates the number of active Airbnb listings in Scotland in May 2019 (32,000) was around three times the level in 2016⁵. The evidence indicates self-catering accommodation concentrated in tourist hotspots such as Highland,

² For an existing host

³ This will be added to later publications

⁴ Source: Non-domestic rates Valuation Roll

⁵ Source: Scottish Government, [Short-term lets - impact on communities: research](#)

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

Argyll and Bute, City of Edinburgh, Glasgow City, Fife, Perth and Kinross and Dumfries and Galloway⁶. In contrast, there has been a small decrease in the number of B&B / guesthouse premises on the NDR valuation roll over the last decade, with the number of B&B/guesthouse premises in April 2023 (1,455) down 2% from the level in April 2010.

- Average occupancy rates in Scotland continue to recover, with monthly self-catering occupancy rates in January – March 2023 at or above 2022 levels, but remaining below pre-pandemic (2019) levels and B&B / guesthouse occupancy rates broadly recovering to pre-pandemic levels⁷.
- Evidence on the recovery of the wider tourism sector shows promising indications, with GDP in the tourism sector now returned to pre-pandemic levels⁸. Spending from overseas visitors to Scotland in 2022 has also recovered to pre-pandemic levels (to 10% above 2019 levels, when taking inflation into account) and overseas visit numbers have almost recovered (to 7% below 2019 levels)⁹.
- However, the macroeconomic environment remains challenging, with inflation remaining high, increasing costs for businesses and suppressing real household disposable incomes. The sector continues to be comparatively more impacted than average by staff shortages and the cost crisis¹⁰ which is impacting on business confidence¹¹.
- Despite the challenging economic environment, trip intentions are growing steadily, with 74% of UK adults surveyed in June 2023 intending to take a UK overnight trip in the next year (up from 70% in 2022) and 55% intending to take an overseas trip (up from 49% in 2022)¹².

SG Guidance

We are also currently updating our short-term let licensing and planning guidance, with input from the IAG and SOLAR, to reflect developments since licensing became operational in October 2022. These are known and relatively minor updates, and we expect to publish them by the end of June 2023.

Implementation Updates

In line with my predecessor's assurance to the Committee, in 2024 we will provide a more formal, detailed but still relatively preliminary update on licensing implementation. This was previously referred to as a 'review'. We are currently engaging with stakeholders to gain their views on how we do this update to inform the scope and handling. Initial thoughts are this would include updating the Business Regulatory Impact Assessment (previously published in November 2021), using data and information from the new quarterly statistical publication, as well as undertaking a stakeholder survey to identify (and learn) from areas of best practice/ explore matters that require further consideration. I will keep the Committee informed and provide further detail once we've concluded discussions and made a decision about the

⁶ Source: Non-domestic rates Valuation Roll and Scottish Government, '[Short-term lets - impact on communities: research](#)'

⁷ Source: Scottish Accommodation Occupancy Survey, Visit Scotland. Data is based on a sample of accommodation providers via an opt-in voluntary survey. The survey is commissioned by VisitScotland and is carried out by The Moffat Centre for Travel and Tourism Business Development.

⁸ Source: Scottish Quarterly GDP Index

⁹ Source: International Passenger Survey, ONS

¹⁰ Source: Business Insights and Conditions Survey, ONS

¹¹ Source: Scottish Chambers of Commerce Quarterly Economic Indicator and STA Business Barometer

¹² Source: Domestic Sentiment Tracker, VisitBritain

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

format of next year's update, as well as the frequency and format of future implementation updates.

Ahead of next year's update, we continue to engage regularly with stakeholder groups and partners to monitor implementation, including with tourism bodies via an Industry Advisory Group (facilitated by Visit Scotland), a licensing forum for local authority officials managing local short-term let licensing schemes (facilitated by Scotland's Housing Network), a dedicated working group of local authority lawyers (SOLAR) that includes Police Scotland/ Scottish Fire and Rescue, and a forum for community and resident groups.

All of the licensing authorities represented on the SOLAR group¹³ advise that, of the applications received and processed to date, none have been refused. For most of those granted it has been a straightforward process. Where there have been notable objections by neighbours/ residents and/or other concerns, it has been possible to resolve these by the agreement of additional conditions or adjustment of the licence parameters (e.g. reducing the maximum occupancy that is permitted for the accommodation or the initial term of the licence).

Licensing authorities anecdotally have told us they are supporting applicants to resolve issues where invalid applications have been submitted. This is not a reflection that the process is complicated, in fact I am pleased to hear licensing authorities are receiving feedback from applicants that it was more straightforward than expected. As with any new regime, there is recognition that over time the sector will become more familiar with the process and requirements of short-term let licensing, and it will become more embedded as the cycle of renewals commence in a few years. This does, however, emphasise the importance of regulation, particularly with the assurance this provides guests that the sector is complying with consistent safety standards across Scotland, and I would envisage the proportion of invalid applications received by licensing authorities will be lower when licences are renewed.

As a former member of the Committee, I scrutinised the licensing legislation as it was developed, subsequently passed by Parliament and amended to extend the transitional deadline. I have heard and considered the evidence provided to the Committee from all stakeholders; I am therefore aware of the public support for regulation, particularly from residents in hotspot areas, and the concerns voiced by the sector about potential unintended consequences.

The Scottish Government continues to be proactive in working with licensing authorities to harmonise consistent operational approaches where possible and has also been responsive to sector concerns about delivery. This has been demonstrated by the extension to the transitional deadline, recognising the cost of living pressures that emerged during last year, providing an additional six months for existing hosts to undertake compliance work. In addition, the Government's action to liaise with tourism bodies and specific authorities to resolve issues such as floor plan requirements.

¹³ Glasgow City Council, the City of Edinburgh Council, Highland Council, Fife Council, Orkney Council, Aberdeenshire Council, West Dunbartonshire Council, Moray Council
Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

Judicial Review – City of Edinburgh Council

Since the determination of the Judicial Review (JR) made against the City of Edinburgh's local licensing policy was published on 8 June, I have received correspondence from the Association of Scottish Self-Caterers (ASSC) citing the aspects of the Council's policy that were found to be unlawful and calling on the Scottish Government to scrap licensing regulation or to further extend the transitional deadline for existing hosts. It may be helpful to outline that the JR challenge was specific to the City of Edinburgh Council's implementation of the short-term let licensing scheme, it was not a challenge to the licensing scheme itself. It remains our view that licensing of short-term lets can be operated effectively by councils so as to respect the rights of hosts and guests in short-term let accommodation, and is appropriate for the whole of Scotland.

We have spoken to the Council; it is important to highlight that the Council still has an operational licensing scheme and we understand it plans to quickly update its information for applicants, to provide clarity for hosts about the changes it has made to respond to the JR, particularly existing hosts that will be applying before 1 October 2023. As I have mentioned in this letter, if existing hosts apply by the above date they can continue to operate while their application is being determined and licensing authorities have up to 12 months (with an option to extend) to process them. I am therefore minded not to extend the transitional deadline and have responded to the ASSC to inform them of my decision.

As I have outlined above, I have continued the established dialogue with stakeholders, put in place by my predecessor, with support of my officials. I remain committed to listening to, working with and involving stakeholders, as licensing schemes embed and we monitor implementation.

I hope this provides committee members with a useful summary of progress in advance of the deadline for existing hosts later this year.

Yours sincerely,

PAUL MCLENNAN

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot

INVESTORS IN PEOPLE
We invest in people Silver

