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To: Local Authority Housing Conveners

Cc: Local Authority Chief Executives;
Councillor Maureen Chalmers, COSLA Spokesperson for
Community Wellbeing

By e-mail

21st September 2022

Dear Housing Convener,

SHORT-TERM LETS LICENSING COMMENCEMENT – 1 OCTOBER 2022

Further to my letter to you of 1 April 2022, I am writing ahead of the commencement date of the short-term let licensing scheme to highlight the following matters for your attention and, where relevant, action.

Guest Houses

We've received a number of queries from local authorities, industry bodies and hosts/operators, as well as a Parliamentary Question, seeking clarification about whether guest houses in planning use class 7 require a short-term let licence. Our response is that the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 does not reference planning use classes. Schedule 1 does exempt hotels with planning permission granted for use as a hotel, but it does not list guest houses with planning permission granted for use as a guest house.

Therefore to clarify, unless specified as exempt, under Schedule 1 of this legislation, short-term let accommodation will require a licence to operate and this includes guest houses. We have circulated the information at Annex A to licensing authorities to clarify this matter for the purposes of determining whether or not accommodation is captured by any of the exclusions set out in Schedule 1 of the Licensing Order. We will monitor the application of this as part of the review already announced for 2023.

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Commencement

As we approach 1 October 2022, the date by which local authorities must legally open their licensing schemes by and be ready to receive applications, I would like to recognise the hard work of your teams in recent months to ensure that the policies, processes and systems are in place locally to meet this deadline. I am aware that this has been challenging in the context of the timing of local elections earlier this year, with some draft policies set to be considered and ratified by council committees throughout September.

While there are no penalties under legislation for councils that fail to meet this deadline, there is of course a risk that councils could be challenged by new hosts, or anybody acting on their behalf, if they are unable to submit an application for a licence due to their local authority's scheme not being open. This is because from 1 October new hosts of short-let accommodation cannot accept bookings or receive guests unless they have obtained a licence, and if they do so they will be in breach of the law.

If you believe your local authority will not have a scheme established by 1 October it is essential that you contact shorttermlets@gov.scot urgently for further advice.

Yours sincerely,



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GUEST HOUSES

The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (the “Licensing Order”) does not exempt accommodation because it is in a particular use class (of the Town and Country Planning (Use Classes) (Scotland) Order 1997) for planning purposes.

Therefore some, but not all, accommodation listed in Use Class 7 is exempt from short-term let licensing. Schedule 1 of the Licensing Order lists this accommodation as

- a hotel, which has planning permission granted for use as a hotel
- a hostel

In addition, the following exemption will also be relevant to some Use Class 7 premises (including hotels and guest houses):

- premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect and where the provision of accommodation is an activity listed in the operating plan as defined in section 20(4) of the 2005 Act

Guest houses were originally listed as excluded accommodation in a previous version of the Licensing Order laid in December 2020. However, in response to feedback to this draft Order we subsequently removed guest houses from the list of excluded accommodation and undertook further public consultation on this in June 2021. This reflected that, as they can be variants of home sharing, guest houses should not be automatically excluded. Further information is set out in the 2021 consultation paper (item 1 in table 2 at page 12): [Short term lets - draft licensing order and business and regulatory impact assessment \(BRIA\): consultation - gov.scot \(www.gov.scot\)](#).

Unless otherwise excluded by any of the criteria set out in Schedule 1 of the Licensing Order, use class 7 premises are therefore within scope of the definition of a short-term let in the Order laid in November 2021 and approved by the Scottish Parliament in January 2022.

