
Report to Clackmannanshire Council

Date of Meeting: 1 December 2022

Subject: Short Term Lets Licensing Policy

Report by: Lee Robertson, Senior Manager of Legal & Governance

1.0 Purpose

- 1.1. On 19 January 2022, The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (“the Order”) was approved by the Scottish Parliament. The Order came into force on 1 March 2022 and inserts new legislative provisions into the Civic Government (Scotland) Act 1982.
- 1.2. The Order introduces a new mandatory licensing system for short term lets (“STL”) which local authorities were required to establish by 1 October 2022.
- 1.3. The purpose of this report is to seek Council approval of the (i) proposed fees (set out in paragraph [54] of draft policy; and (ii) the policy contained in Appendix 1.
- 1.4. This report seeks to allow the Committee to determine whether any changes should be made to the draft Policy Statement

2.0 Recommendations

- 2.1. It is recommended that Council:
 - 2.1.1 note that the Order requires local authorities to open a licensing scheme for short term lets by 1 October 2022;
 - 2.1.2 agree the fee structure for short term let properties; and
 - 2.1.3 agree to finalise and publish the Short Term Let Licensing Policy

3.0 Considerations

- 3.1. Prior to the introduction of the legislation, there was no requirement to licence STLs and, therefore, local authorities did not have the ability to regulate these types of premises.
- 3.2. The licensing scheme was brought in by the Scottish Government with the aim to ensure STLs are safe, address issues faced by neighbours, to facilitate

local authorities in knowing and understanding what is happening in their area and handling complaints effectively. It also enables local authorities to ensure the people providing STLs are suitable.

3.3. The Order also aims to make sure that the economic and tourism benefits from STL are balanced with the needs and concerns of local communities.

3.4. The Order addresses a number of concerns that arise regarding short term lets and include:

3.6.1 Impact on available housing supply within the city;

3.6.2 Erosion of sense of community in areas with dense concentrations of short term lets;

3.6.3 STL are generally not suitable for tenement properties;

3.6.4 Properties which are used as short term lets may not reach the same safety standards as other types of visitor accommodation;

3.6.5 Noise and anti-social behaviour created by guests using short term lets; and

3.6.6 STLs which operate on a commercial basis may not be paying rates or other council charges required.

3.6.7 to ensure STLs are safe

3.6.8 address issues faced by neighbours

3.6.9 to facilitate local authorities in knowing and understanding what is happening in their area and handling complaints effectively

3.6.10 it enables local authorities to ensure the people providing STLs are suitable

3.5. The Order aims to make sure The STL licensing scheme will cover a wide range of residential accommodation including, but not exclusively, self-catered properties, B&B's, guest houses, glamping pods and yurts.

3.6. The Order includes a new mandatory safety requirement that will cover every type of short term let to ensure a safe, quality experience for visitors. It will also include a 'fit and proper' test to assess whether the applicant is suitable to hold such a licence, as with all other types of licensable activities under the 1982 Act. The Council also has the discretion to apply further appropriate conditions to address any local concerns.

3.7. The Order sets out a timetable for the implementation of the licensing scheme, which will take place incrementally to give hosts and operators time to comply. The Order contains transitional provisions which allow existing operators to continue hosting guests whilst their application is considered and determined. Accordingly, the timeline for local authorities to open a licensing scheme for short term lets to applications is as follows:

- 1 October 2022 – Licensing system opens to applications;

- By 1 April 2023 – Existing hosts or operators must have made an application to the Council and can continue to operate whilst their application is processed and determined. New entrants to the market will be required to have a licence application granted before being able to operate; and
 - 1 July 2024 – All short term lets to be licensed.
- 3.8. The Order will broadly have additional resource impacts for the Licencing Authority in Clackmannanshire which is required to administer them.

4.0 Fee Structure

- 4.1 Licensing authorities are required to charge fees in respect of processing and determining applications. The Order states that licensing fees must be sufficient to cover the authority's administrative expenses. This doesn't just include staff time and ongoing associated expenses, but all the work involved in getting the licensing scheme up and running.
- 4.2 The fee charged for the consideration of an application for the grant, renewal or variation of a licence and for any inspection relating to that consideration must not exceed the reasonable costs of that consideration and related inspection. The legislation also enables enforcement costs to be recovered separately. These are for premises which require inspection after ongoing complaints or whether there is a failure to comply with conditions relating to the premises.
- 4.3.1 The fee structure requires a level of estimation given the unknown certainty as to how many licence applications will be received for Clackmannanshire Council area. A close analysis of income vs expenditure for short term let licensing will be undertaken from 1 October 2022 to ensure that fees are set at the correct level. This should be reviewed annually by officers and increase in fee levels brought back to Council for approval.
- 4.3.2 A licensing authority may charge such reasonable fees as they may determine in respect of an inspection of premises following:-
- (i) a failure to comply with a licence condition, or
 - (ii) a complaint relating to the premises (unless the complaint is frivolous or vexatious).
- 4.3.3 The decision to make such a charge will be taken in a proportionate manner in line with the Enforcement Policy for Environmental Health. Where such a charge is to be made, the Council will seek full cost recovery for such inspections based on the appropriate productive hourly rate for the grade of officer undertaking the inspection.

Note - where a Local Authority charges a fee in respect of an inspection, the licensing authority must—

- (a) produce a report of its finding to the licence holder within 28 days of the inspection, or
- (b) where a report is not provided within 28 days of the inspection, refund the fee charged to the licence holder.

5.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) Our Priorities (Please double click on the check box)

- Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all
- Our families; children and young people will have the best possible start in life
- Women and girls will be confident and aspirational, and achieve their full potential
- Our communities will be resilient and empowered so that they can thrive and flourish

(2) Council Policies (Please detail)

6.0 Equalities Impact

6.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes No

7.0 Legality

7.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes No

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Appendix 1 Draft Short Term Lets Policy

11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes (please list the documents below) No

The Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022

Author(s)

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Approved by

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CLACKMANNANSHIRE COUNCIL

Short Term Let Licensing Scheme

DRAFT POLICY SUBJECT TO FINAL APPROVAL BY COUNCIL ON 1ST DECEMBER 2022

Background

1. On 19 January 2022, The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (“the Order”) was approved by the Scottish Parliament. The Order came into force on 1 March 2022 and inserts new legislative provisions into the Civic Government (Scotland) Act 1982 (“the Act”).
2. The Order introduces a new mandatory licensing system for short term lets (“STL”) which local authorities are required to establish by 1 October 2022.
3. Prior to the introduction of the legislation, there was no requirement to licence STLs and, therefore, local authorities did not have the ability to regulate these types of premises.
4. The licensing scheme was brought in by the Scottish Government with the aim to ensure STLs are safe, address issues faced by neighbours, to facilitate local authorities in knowing and understanding what is happening in their area and handling complaints effectively. It also enables local authorities to ensure the people providing STLs are suitable. The legislation aims to make sure that the economic and tourism benefits from STL are balanced with the needs and concerns of local communities.
5. The STL licensing scheme will cover a wide range of residential accommodation including, but not exclusively, self-catered properties, B&B’s, guest houses, glamping pods and yurts.

Definitions within the Act – see appendix [1]

6. Definition of a Short Term Let

The definition of a Short-term Let (STL) as prescribed by law broadly defines this as a business agreement to use residential accommodation by a guest but excludes:

Hotels; boarding houses and other licensing activities, e.g. mobile home.
The full definition of an STL is contained within Appendix 1 to this policy.

7. Excluded Accommodation

The 2022 Order provides for certain accommodation to be regarded as “excluded accommodation” and therefore there is no need for the owners or operators of these types of accommodation to require a Short-term Let Licence. A full list is contained in Appendix 2 of this policy and includes:

Nursing Homes; hostels; student accommodation, etc.

8. Excluded Tenancies

The 2022 Order also makes provision to exclude certain tenancies. A list of excluded tenancies can be found in Appendix 2 of this policy and includes: Assured and short assured tenancies; Scottish Secure tenancy, etc. Clackmannanshire Council recommends that people take their own independent legal advice around whether their agreement with a guest constitutes an excluded tenancy as Clackmannanshire Council cannot provide legal advice and can only determine exclusion through proof of one of the above tenancy agreements.

NOTE: Clackmannanshire Council recommends taking your own independent legal advice on whether or not your accommodation would require an STL licence as Clackmannanshire Council cannot provide legal advice on whether or not a premises is excluded from requiring an STL licence.

Purpose

9. This Policy sets out how Clackmannanshire Council will provide information on the following areas:

Licence Duration and Renewal
Temporary Licences
Temporary Exemptions
Additional Conditions which will apply
Compliance and Enforcement

10. This policy is to provide guidance for prospective applicants, existing licence holders, those who may wish to object to an application. The Council will have regard to the terms of its policy when determining applications. This policy will be reviewed and revised when necessary.

Aims

11. The key aims of licensing are the preservation of public safety and order and the prevention of crime. A specific licensing regime for STLs will allow the Council to take into account local circumstances when setting out its licensing policy and to exercise appropriate control and regulation to ensure any STL premises meet the requisite safety standard, manage their licensing scheme, including the types of licence that will be issued and the duration; licence conditions; the application process; enforcement and compliance; and applicable fees

Key Dates

12. Owners or operators of a STL accommodation should note the key dates for the implementation of the STL licensing scheme set out below:

Date	Hosts operating a STL before 1 October 2022	Never operated a STL before 1 October 2022
1 October 2022	<p>You can continue to operate your premises as a STL – must comply with existing laws and regulations;</p> <ul style="list-style-type: none"> • You must apply to the Licensing Authority where your premises is situated for a STL licence before 1 April 2023; and • If your STL Licence application is refused by the Licensing Authority you must stop using your premises as a STL within 28 days of the decision 	<ul style="list-style-type: none"> • If you wish to operate a STL you must apply to the Licensing Authority in which your premises is situated; and • Must not operate a STL without a licence being granted by the Licensing Authority where your premises is situated.
1 April 2023	<ul style="list-style-type: none"> • Can only operate without a licence if a STL licence application has been submitted to the Licensing Authority where your premises is situated, and it has not been refused; and • You must stop operating as a STL if your application is refused by the Licensing Authority, subject to appeal 	Same as above
1 July 2024	All hosts must have a STL licence.	Same as above

Licence Conditions

13. Mandatory Licence Conditions

The 2020 Order requires all STL licences across Scotland to apply mandatory licence conditions. A list of all the mandatory licence conditions is contained in **Appendix 3**.

14. Maximum Occupancy

14.1 One of the mandatory conditions that is attached to all STL licences is that the licence holder must ensure that the number of guests residing in the premises does not exceed the number specified in the licence. This includes making the maximum occupancy clear on adverts, listings, as well as in booking terms and conditions.

14.2 All applications will ask the applicant to confirm the number of guests they would like to accommodate in the premises. The Licensing Authority do however have to provide a maximum number of guests who can stay on the premises at any one time on the STL licence when it is issued. This figure is known as “the maximum capacity”.

14.3 The Licensing Authority, taking into account the information provided on the application form and layout plan, will calculate the maximum capacity in the following way:

14.4 The maximum number of persons in relation to a premises is whichever is the less of:

(a) The number specified in Table 1 below in relation to the number of rooms in the house available as sleeping accommodation for guests, and

(b) The aggregate for all such rooms in the premises of the numbers specified in column 2 of Table 2 in relation to each room of the floor area specified in column 1.

14.5 It should also be noted that a room is available as sleeping accommodation if it is of a type normally used in the premises as a living room or as a bedroom.

14.6 The Licensing Authority will not include children under the age of 2 years when calculating the maximum capacity. No account shall be taken for the purposes of either Table of a room having a floor area of less than 50 square feet.

Table 1

Number of Rooms	Number of Persons
1	2
2	3
3	4
4	7

5 +	2 for each room
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Table 2

Floor area of each bedroom	Number of Persons
90 sq. ft. (8.36 sq. m) or more	2
50 sq. ft. (4.65 sq. m) or more but less than 90 sq. ft (8.36 sq. m)	1

- 14.7 Applicants will state in their application how many guests they would like to accommodate. The Council will consider the following criteria when determining maximum occupancy:

14.7.1 the number requested on the application form;

14.7.2 the maximum number that can be accommodated safely (broken down to the number of adults and number of children);

14.7.3 the maximum number that can be accommodated within tolerable noise and nuisance for neighbours.

- 14.8 The Council will ask applicants to submit a floor plan for their premises as part of their application. This should include room sizes, fire escapes routes and accommodation intended for guests with mobility impairment; the location of any steps, stairs, elevators or lifts in the premises, as well as the extent and boundary of the building where deemed relevant.

15. **Additional Licence Conditions**

In addition to the mandatory licence conditions which apply to all Short-term Lets, licensing authorities may impose additional conditions. These enable the licensing authority to respond to challenges and concerns relative to specific types of Short-term Letting.

The Council cannot set conditions which limit the number of nights a premises may be used for secondary letting. The Council has no plans to set limits on home letting or home sharing premises.

STL Application Process

16. Where appropriate, the Council will grant a short term let licence for the following time periods:

16.1 Secondary Letting – 3 year

16.2 Home Sharing – 3 years

- 16.3 Home Letting – 3 Years
- 16.4 Home Letting and Home Sharing – 3 Years
17. An application for the grant, variation or renewal of a full licence must be made to the Council together with the appropriate fee and layout plan, as well as providing copies of the following certification – please only provide copies of documents as originals will not be returned:
- 17.1 annual Gas Certificate (for accommodation with a gas supply);
 - 17.2 Current Electrical Installation Condition Report;
 - 17.3 Annual Portable Appliance Test Certificate; and
 - 17.4 For secondary letting only, Planning Permission under the Town and Country Planning (Scotland) Act 1997 (the 1997 Act) for the use of the premises as a short term let; or proof that an application for planning permission has been made under the 1997 Act, which has not yet been determined; or proof that planning permission is not required (for example, a certificate of lawfulness).
18. As part of the application process, applicants will be required to confirm, by self-declaration, that the following documentation is held for the accommodation:
- 18.1 Current Fire Safety Risk Assessment – (required for new and any subsequent renewal applications or where there has been a change to the number of occupants);
 - 18.2 Current Energy Performance Certificate;
 - 18.3 Current Building Insurance Certificate;
 - 18.4 Current Public Liability Insurance Certificate;
 - 18.5 Current legionella risk assessment; and
 - 18.6 annual Emergency Lighting Certificate (Secondary letting only, for accommodation with 5 occupants and above) An application will only be considered as complete if it comprises of the completed application form accompanied by all copies of required certificates and layout plan. Any applications deemed to be incomplete will be returned and not processed.

Notice of Application

19. The applicant must display a notice of the application on or near the premises where it can be conveniently read by the public. The notice must be displayed for 21 consecutive days from the date the application is lodged with the Council. A copy of a display notice can be downloaded from the Licensing Service website. As soon as possible after the expiry of the period of 21 days, the applicant shall submit to the Council a certificate (available online) which states that a notice was duly exhibited for the required period.

20. The notice will include the following information, as required by the 1982 Act:
- 20.1 The type of licence applied for (Secondary Letting, Home Letting, Home Sharing or Home Letting and Home Sharing);
 - 20.2 If applying as an individual, the applicant's full name and address. If not applying as an individual, the full name of the organisation together with the registered or principal office address, names of directors or persons responsible for the management of the premises;
 - 20.3 Person responsible for the day to day management of the premises;
 - 20.4 Address of the STL premises;
 - 20.5 The number of bedrooms in the premises;
 - 20.6 The maximum number of occupants for the premises;
 - 20.7 Details of any other STL licences that have been granted to the applicant (included on the application form);
 - 20.8 The name and address of the owner(s) where the applicant is not the owner of the premises or on the land on which the premises is located (included on the application form);
 - 20.9 Confirmation that the owners consent to the application (included on the application form); and
 - 20.10 Where objections and representations in relation to the application can be made to, the 28 day timescale for submitting an objection or representation and the statutory requirements of an objection or representation (in writing, providing name and address etc).
21. The application fee table for licence applications can be found here (will be added once determined by the Regulatory Committee)
22. Applicants should note that the application fee is non-refundable in the event of the licence application being refused or being withdrawn prior to determination.

Evidence of Operation as a STL before 1 October 2022

23. Where an applicant has been operating a STL before 1 October 2022, the applicant will be required to certify this when submitting a STL licence application. Checks to confirm this may be made by the Council.

Temporary Licences

24. As per paragraph 7(1) of Schedule 1 of the 1982 Act, the Council can issue temporary licences for short term lets, which may be granted for a duration of up to 6 weeks.
25. The Council consider that the grant of temporary licences for short term lets may be appropriate in the circumstances as set out below:

For home sharing or home letting or home sharing and home letting to give first time hosts the opportunity to try out STL, prior to making a full application.

26. Temporary licences would normally be suitable for the following types of let:
 - 26.1 Home letting;
 - 26.2 Home sharing; or
 - 26.3 Home letting & Home sharing
27. Any temporary licence which is issued will be subject to the mandatory conditions of licence, as set out in the 1982 Act.
28. Temporary licences will also be subject to the additional conditions set out in the Council's STL Conditions Framework.
29. The fee for temporary licence applications can be found here (will be added once determined by the Regulatory Committee)

Temporary Exemptions

30. As per paragraph 1A of Schedule 1 of the 1982 Act, the Council can grant a temporary exemption to the requirement to have a STL licence. Under the terms of the 1982 Act, temporary exemptions can be issued for a specified single continuous period not exceeding 6 weeks in any period of 12 months. The 6 weeks limit on a licence is a maximum, and not a default.
31. The Council may grant temporary exemptions to the requirement to obtain a STL licence, for home letting or home sharing only, in certain circumstances.
32. Temporary Exemptions will be issued for the following types of let:
 - 32.1 Home Letting;
 - 32.2 Home Sharing; and
 - 32.2 Home Letting and Home Sharing
33. The licensing service will aim to process and determine a temporary exemption application within 3 months of the application being received.
34. Any temporary exemption which is issued will be subject to the mandatory conditions of licence, as set out in the 1982 Act.
35. Temporary exemptions will be subject to the additional licence conditions set out in the Council's STL Conditions Framework at appendix two.
36. The fee for a temporary exemption application can be found here (link to be provided in due course)

Accommodation Inspections

37. Inspections of short term let accommodation, as part of the application process, will be undertaken on a risk-based approach.

Making an Objection

38. It is possible to lodge an objection against the grant of an application for a full STL licence. Objections must be made in writing (emails are accepted) and sent to the Licensing Service (licensing@clacks.gov.uk) within 28 days of the application being advertised. If an objection is lodged out with this period, it must explain why it has been lodged late. It would then be a matter for the Council to consider if it is satisfied that there is sufficient reason why the objection was not made in the time required.
39. Under the terms of the 1982 Act there is no objections process for temporary licence applications or for temporary exemption applications.
40. To be considered as competent, objections should include the following information:
 - 40.1 The name and address of the person or organisation making the objection
 - 40.2 The accommodation to which the objection relates
 - 40.3 The grounds of objection, and
 - 40.4 The objection must be signed by the objector, or on their behalf

Determining an Application

41. Each STL application will be considered on its own merits against the terms of the relevant statutory provisions, Scottish Government guidance and this policy. The process with which an application is determined will be in accordance with the Council's Committee terms of reference and the scheme of delegation.

Timescale for Determining Applications

42. Under the terms of the 1982 Act, the Council has 9 months in which to determine a STL application from the date it is received with all the required documentation.
43. Those applications which were received prior to 1 April 2023 where the STL operated prior to 1 October 2022, the Council will have 12 months to determine the application.

Material Change in Circumstances

44. The licence holder must notify the Council in writing, as soon as is reasonable, where there is a material change in circumstances affecting the licence holder or the STL accommodation.

Compliance & Enforcement

45. The Council will seek to work with hosts, residents and other interested parties to ensure compliance with legislative requirements and to be satisfied the accommodation is safe for use.

46. General enforcement fees will be included in the fees for new and renewal STL licence applications. The Council will charge a fee to a host or operator for a visit to their accommodation, where the visit results from their failure to comply with licence conditions or a complaint relating to the accommodation. The Council notes the Scottish Government guidance on frivolous or vexatious complaints in this regard.
47. Where complaints are received in relation to the operation of a licensed short term let accommodation, the Council will seek to resolve it through engagement with the host or operator in the first instance.
48. Information on how to make a complaint in against a STL licence holder or in respect of the operation of the licenced STL can be found on the Licensing Service website.
49. Where appropriate other enforcement options will be considered, which include:
 - 49.1 Additional licence conditions on application or through variation;
 - 49.2 Compliance notices;
 - 49.3 Variation, suspension or revocation of licence; or
 - 49.4 Report to the Procurator Fiscal of any alleged offences under the 1982 Act.
50. A fee will be charged for an inspection following a complaint, where it is found that there are also compliance issues, whether or not those are the issues that were the subject of the complaint.
51. Where a fee is charged for inspections, the Council will produce a report of its findings to the host or operator within 28 days of the inspection.

Fee structure

52. Licensing authorities must determine their own fees and fee structure to recover the running costs specific to their area. The Civic Government (Scotland) Act 1982 states that licensing fees must be sufficient to cover the authority's administrative expenses. As a result the fees charged by licensing authorities will vary across Scotland as is the case for various other Civic Government licensing functions undertaken by licensing authorities.
53. Application, renewal and other chargeable fees will be reviewed on annual basis and increased annually in line with inflation, and updates will be published on the Council's website:

54. The following are the application fees applied to the STL:

New Application Fees:

	Maximum Occupancy applied for (4 or under)	Maximum Occupancy applied for (5 or more)
Secondary letting	£450	£550
Home letting or Home Sharing (or both)	£275	£350

Renewal Fees:

	Maximum Occupancy applied for (4 or under)	Maximum Occupancy applied for (5 or more)
Secondary letting	£400	£500
Home letting or Home Sharing (or both)	£225	£450

Variation Fee:

55. A variation application will be £75 for all types of STL licences.

APPENDIX 1 - DEFINITIONS

Definitions can be found in the Scottish Government guidance at:
<https://www.gov.scot/publications/short-term-lets/>

For the purposes of this policy:

1982 Act means the Civic Government (Scotland) Act 1982;

“Clackmannanshire Council”, “the Council” means Clackmannanshire Council, a Local Authority in terms of the Local Government (Scotland) Act 1994 having its headquarters at Kilncraigs, Alloa, Clackmannanshire, FK10 1EB.

A Short-term Let is defined in the Act as the use of residential accommodation provided by a host in the course of business to a guest, where all the following criteria are met:

- (a) the guest does not use the accommodation as their only or principal home;
- (b) the Short-term Let is entered into for commercial consideration;
- (c) the guest is not an immediate family member of the host, an owner or part owner of the accommodation, or sharing the accommodation as part of an arrangement made, or approved by a school, college or university;
- (d) the accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host, or to another member of the host’s household;
- (e) the accommodation is not excluded accommodation; and
- (f) the Short-term Let does not constitute an excluded tenancy.

Accommodation – this includes whole or any part of any premises. Commercial consideration includes:

- (a) money; and
- (b) a benefit in kind (such as provision of a service, or reciprocal use of accommodation).

Guest – this means a person who occupies accommodation under the Short-term Let.

Host – this means a person who is the owner, tenant or person otherwise in control over occupation and use of the accommodation.

Immediate Family Member – a guest is deemed to be an immediate family member of the host if they are:

- (1) your partner (spouse, civil partner or someone you live with as if you were married to them);
- (2) the parent or grandparent, child or grandchild or brother or sister of you or your partner;
- (3) parents or grandparents, children or grandchildren or brothers and sisters of the partner of one of you: parents or grandparents, children or grandchildren or brothers or sisters.

Civic Licensing Standards Officer has the definition in Section 45(d) of the 1982 Act.

Home Letting means a Short-term Let for the use, while the host is absent, of accommodation which is or is part of, the host's only or principal home.

Home Sharing means a Short-term Let for the use, while the host is present, of accommodation which is, or is part of, the host's only or principal home.

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Hostel means a building, other than a house, in which there is provided for persons generally or for any class or classes of persons:

- (a) residential accommodation; and
- (b) either or both –

- (i) meals;
- (ii) cooking facilities.

The General Purposes Board means Clackmannanshire Council's civic licensing and regulatory committee.

Short-term Licence or STL Licence means a licence for a Short-term Let.

Secondary Letting means a Short-term Let for the use of accommodation which is not, or is not part of, a host, only a principal home;

Type of Short-term Let means one of the following purposes:

- secondary letting
- home letting;
- home sharing; or
- home letting and home sharing.

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APPENDIX 2 - EXCLUDED ACCOMMODATION AND TENANCIES

Excluded Accommodation means accommodation which is, or is part of:

- (a) an aparthotel;
- (b) 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 that Act;
- (c) a hotel which has planning permission granted for use as a hotel;
- (d) a hostel;
- (e) residential accommodation where personal care is provided to residents;
- (f) a hospital or nursing home;
- (g) a residential school, college or training centre;
- (h) secure residential accommodation (including a prison, young offenders' institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation, or accommodation used as military barracks);
- (i) a refuge;
- (j) student accommodation
- (k) accommodation which otherwise requires a licence for use of a hire for overnight stays (not including an HMO licence granted under Section 129 of the Housing (Scotland) Act 2006);
- (l) accommodation which is provided by the guest;
- (m) accommodation which is capable, without modification, of transporting guests to another location;
- (n) a body; or
- (o) accommodation owned by an employer and provided to an employee in terms of a contract of employment or for the better performance of the employee's duties.

An Excluded Tenancy is a tenancy which falls under any of the following definitions:

- (a) a protected tenancy (within the meaning of Section 1 of the Rent (Scotland) Act 1984);
- (b) an assured tenancy (within the meaning of Section 12 of the Housing (Scotland) Act 1988);
- (c) a short assured tenancy (within the meaning of Section 32 of the Housing (Scotland) Act 1988);
- (d) a tenancy of a croft, (or in the meaning of Section 3 of the Crofters (Scotland) Act 1993);
- (e) a tenancy of a holding situated outwith the crofting counties (within the meaning of Section 61 of the Crofters (Scotland) Act 1993) to which any provisions of the Small Landholders (Scotland) Acts 1886 to 1931) apply;
- (f) a Scottish Secure Tenancy (within the meaning of Section 11 of the Housing (Scotland) Act 2001);
- (g) a short Scottish Secure Tenancy (within the meaning of Section 34 of the Housing (Scotland) Act 2001);
- (h) the 1991 Act Tenancy (within the meaning of Section 1(4) of the Agricultural Holdings (Scotland) Act 2003);

- (i) a limited duration tenancy (within the meaning of Section 93 of the Agricultural Holdings (Scotland) Act 2003);
- (j) a modern limited duration tenancy (within the meaning of Section 5A of the Agricultural Holdings (Scotland) Act 2003);
- (k) a short limited duration tenancy (within the meaning of Section 4 of the Agricultural Holdings (Scotland) Act 2003);
- (l) a tenancy under a lease under which agricultural land is let for the purpose of its being used only for grazing or mowing during some specified period of the let (as described in Section 3 of the Agricultural Holdings (Scotland) Act 2003);
- (m) a private residential tenancy (within the meaning of Section 1 of the Private Tenancies (Scotland) Act 2016); or
- (n) a student residential tenancy.

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APPENDIX 3 - MANDATORY LICENSING CONDITIONS

Agents

1. Only those named as a holder of the licence can carry out the day to day management of the Short-term Let of the premises.

Type of Licence

2. The holder of the licence may only offer the type of Short-term Let for which the licence has been granted.

Fire Safety

3. The Holder of the licence must ensure the premises has satisfactory equipment installed for detecting, and for giving warning of: (a) fire or suspected fire, and (b) the presence of carbon monoxide in a concentration that is hazardous to health.
4. The holder of the licence must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988.

Gas Safety

5. Where the premises has a gas supply:
 - (a) the holder of the licence must arrange for an annual gas safety inspection of all gas pipes, flues and appliances in the premises;
 - (b) if, after an annual inspection, any appliance does not meet the required safety standard, the holder of the licence must now allow a Short-term Let of the premises until the works necessary to bring the appliance to the required safety standard have been carried out.

Electrical Safety

6. Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the holder of the licence must:
 - (a) ensure that any electrical fittings and items are in: (i) a reasonable state of repair, and (ii) proper and safe working order,
 - (b) arrange for an electrical safety inspection to be carried out by a competent person at least every five years and more frequently if directed by the competent person,
 - (c) ensure that, following an electrical safety inspection, the competent person produces an Electrical Installation Condition Report on any fixed installations,
 - (d) arrange for a competent person to: (i) produce a Portable Appliance Testing Report on moveable appliances to which a guest has access, and (ii) date label and sign all moveable appliances which have been inspected.
7. In determining who is competent, the holder of the licence must have regard to guidance issued by the Scottish ministers under Section 19B(4) of the Housing (Scotland) Act 2006.

Water Safety: Private Water Supplies

8. Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human consumption (Private Supplies) (Scotland) regulations 2017.

Water Safety: Legionella

9. The holder of the licence must assess the risk from exposure to legionella within the premises, whether or not the premises are served by a private water supply

Safety and Repair Standards

10. (a) The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.

(b) Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the holder of the licence must ensure that the premises meet the repairing standard.

Maximum Occupancy

11. The licence holder must ensure that the number of guests residing on the premises does not exceed the number specified in the licence.

Information to be Displayed

12. The holder of the licence must make the following information available within the premises in a place where it is accessible to all guests:
 - (a) a certified copy of the licence and the licence conditions;
 - (b) fire, gas and electrical safety information;
 - (c) details of how to summon the assistance of emergency services;
 - (d) a copy of the Gas Safety Report;
 - (e) a copy of the Electrical installation Condition Report; and
 - (f) a copy of the Portable Appliance Testing Report.

Planning Permission

13. Where the premises is in a Short-term Let control area for the purposes of Section 26B of the town and Country Planning (Scotland) Act 1997 ("the 1997 Act"), the holder of the licence must, where the use of the premises for a Short-term Let requires planning permission under the 1997 Act, ensure that either:
 - (a) an application has been made for planning permission under the 1997 Act and has not yet been determined; or
 - (b) planning permission under the 1997 Act is in force.

Listings

- 14.1 The holder of the licence must ensure that any listing or advert (where electronic or otherwise) for the Short-term Let of the premises includes:
- (a) the licence number; and
 - (b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008.
- 14.2 the holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the Short-term Let of the premises is consistent with the terms of the Short-term Let licence.

Insurance

15. The holder of the licence must ensure that there is in place for the premises:
- (a) valid buildings insurance for the duration of the licence; and
 - (b) valid public liability insurance for the duration of each Short-term Let agreement.

Payment of Fees

16. The holder of the licence must pay any fees due to the licensing authority in respect of the licence on demand.

False or Misleading Information

17. The holder of the licence must not provide any false or misleading information to the licensing authority.

Interpretation for the Mandatory Conditions

18. In this schedule:

“Electrical installation Condition Report” means a report containing the following information:-

- (a) the date on which the inspection was carried out;
- (b) the address of the premises inspected;
- (c) the name, address and relevant qualifications of the person who carried out the inspection;
- (d) a description, and the location of each installation, fixture, fitting and appliance inspected;
- (e) any defect identified;
- (f) any action taken to remedy a defect.

“Energy Performance Certificate” means a certificate which complies with Regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008;

“Gas Safety Report” means a report containing the following information:-

- (a) the date on which the appliance or flue was checked;
- (b) the address of the premises at which the appliance or flue is installed;
- (c) a description of and location of each appliance or flue checked;
- (d) any safety defect identified;
- (e) any remedial action taken;
- (f) confirmation that the check undertaken complies with the requirements of an examination –
 - (i) the effectiveness of any flue;
 - (ii) the supply of combustion air;
 - (iii) subject to head;
 - (iv) its operating pressure or heat input or, where necessary, both;
 - (v) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance;
 - (vi) its operation so as to ensure its safe functioning.
- (vii) The name and signature of the individual carrying out the check; and
- (viii) The registration number with which that individual, or that individual's employer, is registered with a body approved by the health and Safety Executive for the purposes of Regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998.

“Holder of the Licence” means any person to whom a Short-term Let licence has been granted or jointly granted;

“Home Letting” means a Short-term Let consisting of the entering into of an agreement for the use, while the host is absent, of accommodation which is, or is part of, the host's only or principal home;

“Home Sharing” means a Short-term Let consisting of the entering into of an agreement for the use, while the host is present, of accommodation which is, or is part of, the host's only or principal home;

“Premises” means the accommodation which is the subject of an application for a Short-term licence or the subject of a Short-term licence;

“Repairing Standard” means the steps which the holder of the licence is required to take to comply with the obligations placed on the holder by Chapter 4 of Part 1 of the Housing (Scotland) Act 2006;

“Secondary Letting” means a Short-term Let consisting of the entering into of an agreement for the use of accommodation which is not, or is not part of, the licence holder's only or principal home;

“Short-term Let” has the same meaning as in Article 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022;

“Short-term Let Licence” means a licence for a Short-term Let; and

“Type of Short-term Let” means one of the following purposes:

- (a) secondary letting;
- (b) home letting;
- (c) home sharing; or
- (g) home letting and home sharing.

APPENDIX 4 - ADDITIONAL LICENCE CONDITIONS

Clackmannanshire Council are considering adding these specific Conditions to all STL Licences.

- 1.** The Licence holder shall provide guests, no later than 2 days from the booking date, with information on the property / appliances and how to dispose of refuse (including general and recyclable refuse) properly and appropriately from the licensed premises.
- 2.** The Licence holder shall take all reasonable steps to ensure that the appropriate refuse facilities (for both general and recyclable refuse) is in line with Clackmannanshire Council's current policy on the storage and collection of refuse, are available at all times either in the communal areas surrounding the premises or within the premises boundary where there are no communal areas, for the disposal of refuse by guests.
- 3.** The Licence holder shall ensure that the refuse facilities at the premises are in the communal surrounding areas of the premises are used appropriately at all times by the guests.
- 4.** The Licence holder shall be responsible for advising residents of the refuse collection day and for making arrangements for the presentation of wheeled bins for collection at the appropriate time and day.
- 5.** The Licence holder shall take reasonable steps to:
 - i.** clearly label bins as belonging to the premises
 - ii.** ensure guests are made aware of how to correctly use the bins provided for the premises
 - iii.** ensure provide bins/sacks are available
 - iv.** ensure that guests manage their waste properly, including when they depart
 - v.** ensure guests are made aware as to what items should not be disposed of by flushing down the toilet
- 6.** The Licence holder shall act reasonably in relation to the management of the licensed premises in respect of any dealings with neighbouring residents of the premises and in relation to the payment of their share of all maintenance costs, insurance costs and repair costs of areas in common relative to the premises and in dealings with any other owners and relevant factor.
- 7.** The Licence holder must take reasonable steps to investigate any complaint made by residents of neighbouring properties relating to the behaviour of any guests at or in the vicinity of the licensed premises and to respond in a fair and proportionate manner.
- 8.** The Licence holder shall advise guests that as a condition of booking they must provide details of a named person over the age of 21 years.
- 9.** The Licence holder, as part of the booking conditions should advise guests' additional noise making equipment such as decks and speakers are prohibited at the premises.

10. The Licence holder must not affix a key box or other device to facilitate the entry for guests to the licensed premises, to any public or jointly owner private infrastructure without prior written permission of the relevant authority or owners. The Licence holder must be able to produce the relevant permissions to the Licensing Authority on request.

11. The Licence holder must take reasonable steps to ensure that guests do not arrive first or finally depart from the licensed premises between the hours of 11.00pm and 7.00am. The Licence holder must advise guests of this as part of their booking conditions.

12. The Licence Holder must ensure that window opening restrictor locks are provided to all windows which can be opened.

13. The licence holder shall require to produce on demand to any authorised person any policy, certificate, document, record, certificate of inspection or safety, licence or plan required by or issued in terms pursuant to any condition of this licence.

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