

STAA response to the Scottish Parliament's
Local Government and Communities Committee

1. Do the proposed changes strike the correct balance between protecting the long-term sustainability of local communities and promoting tourism and strong local economies?

We believe the proposed regulations **do not** strike the correct balance between protecting local communities and promoting tourism in Scotland. This is because the regulations are overly onerous - in fact, some of the most onerous in the world - making responsible short-term rental businesses practically unviable in an already decimated tourism industry. This will have a largely negative on Scotland's well-deserved reputation as a world-leading tourist destination, and on the Scottish economy. It will also likely kill off the non-commercial parts of the market, cutting off an additional income stream for many families, whilst making the costs of compliance for responsible, professional operators extremely high.

STAA member Airbnb commissioned an independent economic impact study¹ on the proposed regulations that provides eye-opening figures on the disproportionality of the Scottish Government's proposals for short-term lets. The report, put together by the research consultancy BiGGAR, shows that the rules could take almost £1 million per day out of the Scottish economy and put up to 17,000 jobs at risk. This is mainly because of the overly burdensome nature of the proposed rules for operators, as well as the impact on other related sectors.

Indeed, local industry representatives from across Scotland have voiced their concerns about the upcoming regulations. The proposals have been criticised as being aimed solely at urban centres while creating excessive burdens in more remote areas. Elected officials such as Douglas Ross MP (Conservative, Moray) also believes the regulations could damage a vital part of his constituency's tourism industry.

Polling carried out by Airbnb also suggests that the Scottish people are opposed to any measures that will harm the tourism economy's recovery from COVID. 91% of Scots believe that tourism will be central to the recovery from the pandemic, whilst 67% want the Scottish Government to focus on policies that will boost tourism, and 72% feel that the Scottish Government should pause any regulations that would hurt the economy or tourism sector until the pandemic is over.

Separate analysis shows that the average Scottish family would need to pay over £700 to meet the legal and technical requirements of sharing a spare room in their home, according to law firm Shepherd and Wedderburn LLP. Any family needing planning permission to share their home could face a bill of around £4,000². This will force many of them out of business, inevitably reducing the supply of affordable tourist accommodation, and making Scotland a much less attractive visitor destination.

These compliance costs are higher than those of similar registration schemes around Europe. In Portugal, which uses a simple online registration scheme, there is no cost for hosts to register their property in compliance with local laws. High compliance costs pose a risk to professional management companies - those leading the way in improving standards and ameliorating residential amenity concerns - potentially costing many jobs. The STAA advocates a cheaper, more digitally focused, scheme which will impose less of a burden on local authority resources and industry practitioners alike.

¹ <https://news.airbnb.com/en-uk/short-term-lets-proposals-could-risk-17000-jobs-in-scotland-2/>

² <https://www.scottishhousingnews.com/article/short-term-lets-regulations-could-take-1m-a-day-out-of-scottish-economy>

The rules are also disproportionate, in the sense that they treat occasional short-term lets in a primary or secondary home the same as fully commercial operations. We believe that short-term lets involving one's primary residence, or one's secondary residence if it is a holiday home, should not be subject to the same licensing criteria as commercial short-term lets. Imposing such stringent criteria on what are ultimately non-commercial actors will kill that section of the market, resulting in fewer properties being available for tourists. Primary residences and secondary holiday homes would never be placed on the long-term rental market anyway, so taking them off the short-term rental market will negatively impact the tourism sector whilst providing no benefits whatsoever to any other part of the economy.

In addition to all the issues regarding the impact on tourism and the costs of compliance for operators, there is also the issue of COVID. The total financial impact of COVID-19 restrictions on the self-catering sector in the UK has been calculated at about £265m since September 2020 only. According to a survey carried out on behalf of VisitScotland³, most operators have suffered losses of up to £50,000, whilst 99% of businesses experienced cancellations or a decline in bookings since the beginning of the COVID-19 crisis. According to internal data from STAA members, the March COVID-19 lockdowns across the UK led to cancellation rates of almost 90% and wiped out a vast proportion of the summer high season, having a catastrophic impact on the revenues of tourism businesses across the UK, Scotland included. Again, this does not account for the months of uncertainty that followed (which led to another heavily depressed period over Christmas), nor indeed the second national lockdown that has been imposed since these data were gathered.

The STAA exists to support the development of a safe and sustainable short-term rental industry in the UK. We work to ensure that our industry does not negatively impact local communities but instead supplements and provides much-needed incomes, while promoting UK destinations as affordable and authentic. We understand that local authorities must, first and foremost, consider the amenity of their citizens. However, these regulations give local authorities the ability to impose huge costs on the short-term letting industry (on top of those already imposed by the Scottish Government) without requiring them to demonstrate that short-term rentals are having a major impact on neighbourhoods.

We are very thankful for a few of the changes that the Scottish Government has made in its consultation report, particularly with respect to control zones that now require consultations and Ministerial approval, and the extra year granted for all hosts to obtain a licence. We also welcome the amendments with respect to the length of a temporary licence. Nonetheless, these remain insufficient to make up for the costs, restrictions and complications that responsible and safe operators across Scotland will have to incur if the legislation is voted for by Members of the Scottish Parliament.

For all these reasons, we believe these proposals are disproportionate, unduly restrictive, poorly timed, and will end up making Scotland's tourism economy uncompetitive at a moment when every job and livelihood should be fought hard for. Accordingly, we urge the Committee to vote against the legislation.

³ <https://www.visitscotland.org/research-insights/coronavirus-insights/industry-impact>

2. Has the Scottish Government defined short term lets in a clear and correct way in the legislation?

We favour simplicity when it comes to definitions. As an example of a good and clear definition of short-term lets, the Irish Government defines short-term lets as any stay which is shorter than 14 nights. We believe that it would be better if the Scottish Government were to adopt a similar definition. The simpler the definition, the easier it is to comply with the regulations.

It is not clear why accommodation which is not static (Schedule 1, 1. (o)) is included amongst the exempt accommodation. We believe that carving out exceptions for mobile properties will be unnecessarily confusing (as we stated in our response to the consultation on these proposals) and that such accommodation should be included in the definition of short-term lets. As has been stated elsewhere, the proposed definition includes traditional self-catering and BandB operators, which was presumably not the intention of the Scottish Government when it set out to regulate this sector.

In terms of whether short-term lets are defined correctly, we continue to believe that a short-term let should be deemed to have taken place if the property in question is let for more than 28 nights in a year and if at least one of the lettings during that period was not a private residential tenancy. This was the definition which the Scottish Government considered initially, and we believe it to be superior to the current definition. The main reason for this is that the 28-day threshold will ensure that very occasional short-term rental hosts are not captured by this onerous licensing system and not therefore disincentivised from operating. Hosts who are short-letting property for fewer than 28 days a year are clearly not having a negative impact on the housing market and, at worst, are having a very minor and infrequent impact on residential amenity. These people are often simply trying to make some extra money by letting out their home. However, the existing definition of short-term lets and the licensing requirements that it entails will act as a massive barrier to entry for these hosts, pushing them out of the market and cutting them off from an additional source of income.

The Scottish Government has also given very little detail on short-term let control zones. In particular, the criteria or formula which will be used to define control zones has not been made clear to operators. We would welcome further clarity on this issue from the Scottish Government and in particular whether entire houses will be treated differently from properties in shared buildings when it comes to control zones.

3. Will local authorities have adequate resources, powers, and expertise to make a success of their new powers and duties?

We believe that the answer to this question is “no”. However, this does not mean that the powers of local authorities should be increased to compensate for this. Rather, it would be better to design a system which is more in keeping with the resources and capabilities of local authorities.

The proposals submitted by the Scottish Government are likely to be extremely resource intensive. It is not clear how local authorities will effectively monitor compliance with and enforcement of a licensing system which has at least thirteen separate mandatory components (with more which can be added by local authorities). Are local authorities going to send their own workers to individual homes to check that homeowners have filled out their legionella assessment? How is this system likely to work in the context of the continued prevalence of COVID-19?

We are also concerned about the ability of local authorities to set the costs of licences. Although local authorities are told to be cognisant of covering the costs of the enforcement regime, there is no oversight mechanism to limit how much they can charge. Therefore, local

authorities could well charge fees for licences that act as a major disincentive for actors to enter the market, except for those with lots of funding. This would be bad for competition in the sector, as small, independent operators would likely be priced out, whilst larger operators with more resources would be able to increase their market share.

The Scottish Government has not provided any clarity on what funding local authorities will receive to set up systems to implement, monitor, and enforce the licensing system. Given that hosts will not need to be licensed until 2023, and also that the licensing fees are intended to cover the costs of implementing the licensing system, it is not clear that local authorities will be able to fund any parts of the enforcement apparatus that must be in place prior to the first licence fees being paid.

Under the regulations, licence applications will be automatically rejected if they are pending for more than 12 months. This means that local authorities can simply refuse to process applications in order to reject them and that doing so could actually be cheaper for them than granting the licence and administering the system. To correct this, STAA believes that local authorities should be obliged to grant licence applications which have been pending for more than 12 months. This makes sense given that, in the same regulations, hosts are permitted to start operating once they have applied. It would be very strange if a host who has been operating without complaints for 12 months was suddenly unable to continue simply because their licence application had not yet been processed.

Whether or not local authorities have the requisite expertise to enforce this system is a matter for them. However, local authorities will certainly have to invest time and resources into training their officers to understand the national mandatory rules, as well as any additional licensing conditions they choose to add. The Scottish Government has resisted calls from our organisation and others to delay the implementation of the legislation, meaning that local authorities will have to start working towards enforcing this system during the pandemic. Given the circumstances, is this really the best use of local authorities' time and human capital? We think not and would recommend that the new rules are delayed to give businesses and local authorities time to focus on COVID first and foremost, and to prepare for these regulations once the pandemic is over.

As we have suggested above, and on several previous occasions, we believe that it would be better to design a system that does not require an additional investment of resources by local authorities. A simple, national, online registration system would go a long way to tackling many of the issues associated with short-term lets. Such a system would improve compliance because obtaining a registration number to short-term let would be simple and low cost. Local authorities would easily be able to identify whether actors had authorisation to short let by checking addresses against a register and could punish those that are not registered and strike off registered actors who are found to breach existing rules. We continue to believe that this system would be far preferable to the existing suggested licensing system.