

**Report to the Planning and Urban Form
Strategic Policy Committee - November 2020**

Planning Enforcement Update Item No. 4 on Agenda

Update to Short Term Letting Legislation and Enforcement

Legislation

New Short Term Letting Regulations, Planning and Development (amendment) Regulations 2019.

Summary of the new regulations and what they mean.

Background.

On 1st July 2019 the Minister for Housing, Planning, Community and Local Government introduced new Regulations which allow for the use of a “house” for the purposes of Short Term Letting, in a rent pressure zone, in restricted circumstances provided statutory notifications are sent to the relevant Local Authority.

Definitions.

The use of a house or part of a house situated in a rent pressure zone for short term letting purposes is a material change in use of the house or part thereof, as the case may be. (Section 3A of the Planning and Development Act 2000 (as amended))

A short term letting’ means the letting of a house or part of a “house” for any period not exceeding 14 days, and includes a licence that permits the licensee to enter and reside in the house or part thereof for any such period in consideration of the making by any person (whether or not the licensee) of a payment or payments to the licensor.” (Section 3A of the Planning and Development Act 2000 (as amended))

House includes apartments and flats for the purpose of this definition. Legal definition of a house under Part 1 of the Planning and Development Act 2000 (as amended) means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building.

Restrictions on use of a “house” (including apartments and flats etc.)

The new regulations which allow for Short Term Letting in restricted circumstances in a rent pressure zone **do not apply to any property that is not a principal private residence of a person(s).**

This means that the use of a second property that is not owner occupied or tenant occupied cannot legally operate for the purposes of short term letting under the new Regulations. This includes properties whose principle use is for short term letting use. **Full Planning Permission is required in such circumstances.**

Anybody who is operating a property for Short Term Letting purposes in such circumstances, is carrying out unauthorised development, which is an offence under Section 151 of the Planning and Development Act 2000. Such an offence may be prosecuted by Dublin City Council and is subject to criminal sanction.

Option A

A “house” (including apartments and flats etc.) which is a principal private residence **and is occupied by the resident** (landlord or licensor), can use up to 4 rooms accommodating no more than 4 people per room, with **no** restrictions on the number of days per year of use, provided that;

- a) it does not breach any condition of a permission or any use specified in such a permission.
- b) an owner occupier or tenant is resident at the time of the Short Term Lettings.
- c) the prescribed, **Form 15 Statutory Notification form** is sent to Dublin City Council no later than 2 weeks before the commencement of the first Short Term Let of the year, for that property. **This is a one off submission.**

Option B

A “house” (including apartments and flats etc.) which is a principal private residence and is normally occupied by the resident (landlord or licensor) can be used for up to a maximum of 90 days per year, in periods of 1-14 days at a time, in the absence of the owner occupier(s) or tenant residing at that property.

In other words you can let your property for full time Short Term Letting purposes, provided that;

- a) the total number of days does not exceed 90 days in a year(1st January to 31st December).
- b) it does not breach any condition of a permission or any use specified in such a permission.
- c) an owner occupier or tenant is not resident at the time of the Short Term Lettings.
- d) the prescribed **Start of Year, Form 15 Statutory Notification form** is sent to Dublin City Council no later than 4 weeks **after the commencement of each year in which he or she intends to carry out the proposed development and before the commencement of any such development in that year.**
- e) the prescribed **Form 16, 90 Day threshold reached Statutory Notification form** is sent to Dublin City Council which is only required if the 90 Day threshold is reached. This form must be lodged no later than 2 weeks after the threshold has been reached.
- f) the prescribed **End of year Notification, Form 17 Statutory Notification form** is sent to Dublin City Council between the 1st of January and the 28th of January of the year after the lettings have taken place.

Principal private residence which is occupied by the resident (owner or licensor),

Short Term Letting of part of a house (Option A)

No restrictions on the number of days subject to

- Maximum of 4 bedrooms used and maximum of 4 people per bedroom.
- The owner/licensor must be residing in the property at the time of letting.

Form 15 Statutory Notification form is sent to Dublin City Council no later than 2 weeks before the commencement of the first Short Term Let of the year, for that property.

This is a one off submission.

Short Term Letting of the entire house (owner/licensor absent at time of letting (Option B)

Restricted to a maximum of 90 days in a calendar year

- Form 15 notification is sent to Dublin City Council no later than 4 weeks from the commencement of each year and before the use commences, whichever is sooner.
- Form 17 notification relating to the previous years activity is sent to Dublin City Council no later than 4 weeks from commencement of each year
- Form 16 notification is sent to Dublin City Council if the 90 days threshold has been exceeded.

Non principal private residence (Second Property)

Planning permission is required.

Enforcement

Enforcement Measures

Planning authorities can avail of a range of measures to enforce against unauthorised short term letting activity such as:

- reviewing available information from relevant online platforms,
- following up on complaints received from members of the public,
- physical inspections of properties,
- collating and cross-checking information from a range of data sources,
- checking if properties already have relevant permissions etc.

Guide to Enforcement

- The enforcement provisions are contained in Part VIII of the Planning and Development Act 2000 (as amended) and are used to enforce any breaches of planning control including issues relating to short term lettings.
- Statutory Warning Letters, Enforcement Notices and prosecutions / injunctions are availed of to properly enforce issues relating to unauthorised development / use.
- Statutory requests will also be availed of where appropriate, under section 8 of the Planning and Development Act 2000 (as amended), requiring the owner / tenant of the property to provide further information. Failure to comply with such a request can lead to a prosecution and associated conviction.

Guide to Enforcement (Continued)

- All costs reasonably incurred by the planning authority in relation to enforcement proceedings are required to be recovered from a person on whom an enforcement notice has been served or where court action is taken.
- Legal proceedings are initiated in the main to the District Court under section 157 of the Planning and Development Act 2000, as amended. These proceedings are criminal proceedings and carry criminal sanction.
- Any person who knowingly assists or permits the failure by another to comply with an Enforcement Notice shall be guilty of an offence.
- In a prosecution for an offence for non compliance with an enforcement notice, it shall not be necessary for the prosecution to show, and it shall be assumed until contrary is shown by the defendant, that the subject matter of the prosecution (Unauthorised short term letting) was unauthorised development.

Penalties for non-compliance with statutory planning enforcement requirements;

- Carry a maximum penalty of €5,000 or 6 months imprisonment or both if convicted in court.
- Where the person continues the offence after conviction for non compliance with a Notice, they are guilty of a further offence and this carries a maximum fine of €1,500 for each day on which the offence is continued or to imprisonment for a term not exceeding 6 months.

PLANNING APPLICATION STATISTICS

19 planning applications lodged referring to Short Term Lets

12 applications were refused planning permission

3 applications were withdrawn.

3 applications declared invalid.

1 waiting on additional information

CURRENT STAFFING OF STL UNIT TO DATE (Department funding the cost of these staff)

Senior Staff Officer

4 Assistant Staff Officers

5 Planning Enforcement Officers

Executive Planner

1 Law Researcher

Overseen by A/Planning Enforcement Manager

NOTIFICATIONS TO DATE

2019

A total of 246 (form 15) notifications received of which

67 related to homesharing

124 to short term lets

55 to both homesharing and short term lets

2020

A total of 121 (form 15) notifications received to date, of which

38 relate to homesharing

28 to short term lets

55 to both homesharing and short term lets

A total of 50 (Form 17) notifications relating to 2019 STL's have been received to date.

ENFORCEMENT ACTION relating to Short Term Lettings 2020

ENFORCEMENT ACTION TO DATE SINCE January 2020

There were 475 enforcement file opened this year (up to 5/11/2020)

There were 351 cases resolved Cases since January 2020. The remaining cases are under active investigations.

25 x Enforcement Notices have been issued.

4 cases have been referred for legal proceedings in respect of non compliance with enforcement notices. These cases are currently before the courts awaiting hearing.