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Ref: - **HPLG-i-857**

Mr Eoghan Murphy, TD
Minister for Housing, Planning & Local Government
Department of Housing, Planning & Local Government
Custom House
Dublin 1

4th February 2019

E-mail: Niamh.Redmond@housing.gov.ie

Re: Proposed Planning Amendments to address Short-Term Letting

Dear Minister,

I am writing to you on behalf of the Joint Committee on Housing, Planning and Local Government in reply to your original letter dated 24 October 2018 and subsequent referral of both Draft Planning Regulations and Proposed Key Legislative Changes to address Short-Term Letting for consideration and input.

The Committee has previously examined the issue of short-term lettings in some detail leading to the publication of its report entitled: "*The Impact of Short-Term Lettings on Ireland's Housing and Rental Market, October 2017*". The Committee, at its meeting of 6 December, agreed to undertake a short focused review of the draft proposals with a view to informing the finalisation of the draft exempted development regulations. To that extent, the Committee arranged a briefing from officials on the Draft Regulations on 17 January, 2019. The Committee wishes to thank the officials for attending and briefing the Committee on the proposed measures.

The Committee's observations arising from its review of the Draft Regulations and its engagement with officials are attached below. In summary, the Committee considers it of the utmost importance that any future regulations/legislation strike the appropriate balance between regulating the short-term rental market and providing for the continued functioning and success of the indigenous tourist sector that is so vital to the overall economy.

The Committee looks forward to future engagement with you and your officials as the legislation progresses through the Houses in due course.

Yours sincerely,

Ms Maria Bailey, TD
Chair

Cuirfear fáilte roimh chomhfhreagras i nGaeilge

The Joint Committee makes the following observations in regard to Proposed Planning Amendments to address Short-Term Letting. Please note that dissensions were recorded by Committee members in respect of observations 8,9,12,13,14 and 15.

1. The Committee is of the opinion that further clarification is required regarding the interaction between the 14 day definition of “Short-Term” letting and the proposed maximum cap of 90 days. The Committee deems that a degree of misunderstanding has crept into the public debate following the initial publication of information. The Committee recommends that greater clarification is provided as regards the practical implementation of the definition and the 90 day Cap i.e. that letting will be in the form of 14 day blocks but that it will be permissible to let beyond 14 days should the host let to different guests.
2. The Committee is of the opinion that the proposed regulations, as published, may be overcomplicated. In particular, the Committee recommends that the Department reconsider the necessity for the application of a 14 day letting “block” period. In that regard, the Committee proposes that the 90 Day Cap may be sufficient in achieving the intended purpose of the reforms and that the 14 day “block” period be omitted.
3. The Committee is of the opinion that significant data can be sourced from existing short-term letting platforms (STL’s). The Committee recommends that the Department conduct an analysis of the information already available from STL platforms with a view to maximising the data available to assist in targeting reforms within the short-term letting market.
4. The Committee is of the opinion that the proposed regulations/legislation should also extend to incorporate Short-Term Letting (STL) platforms. In particular, the Committee recommends that it be an offense for such platforms to advertise non-compliant hosts and that STL platforms should have an obligation to notify hosts if/when they have exceeded the 90 day Cap.
5. The Committee is of the opinion that further clarification is required regarding implications for BnB’s as regards changes in water rates/charges arising from the implementation of the proposed regulations. In particular, the clarification is sought in terms of potential impact on developments offering tourist products and specific liability for water charges. The Committee recommends that maximum clarity is provided for in any guidance documentation published relating to exemptions.
6. The Committee is of the opinion that further clarification is required regarding planning fees following the implementation of the proposed reforms. The Committee recommends that the Department confirm that the standard planning fee will continue to apply post-enactment of the new regulations/legislation.
7. The Committee is of the opinion that further clarification is required regarding the sanctioning of penalties and possible enforcement actions in terms of possible consequences arising for breaches of the regulations/legislation. The Committee recommends that the sanctions be clearly outlined and published as part of the complementary primary legislation. The Committee recommends that the Department engage in a widespread public information campaign to inform citizens of the consequences of non-compliance.
8. The Committee is of the opinion that a clear distinction be made in the proposed regulations *vis a vis* rural and urban lettings. The Committee deems that rural and urban lettings occupy different spaces in the short-term letting market and such market characteristics should be considered in the formulation of new regulations. In particular, the Committee is mindful of possible adverse

impacts and/or unintended consequences affecting lettings in rural communities if regulations are drafted on a one-size fits all basis.¹

9. The Committee is of the opinion that further clarification is required regarding the definition of “High Housing Demand” as published in the Draft Regulations. The Committee recommends that the Department publish the criteria that will apply in making such determinations on planning permission and that these criteria should be published in guidance documentation in advance of the implementation of the new regulations. This in effect would be a total ban in the Dublin area and more consideration is needed in that regard to avoid any unintended consequences.²
10. The Committee recognises the importance of the new proposed regulations but also considers enforcement to be essential if the Regulations are to be effective in any meaningful way. The Committee recommends that sufficient resources and training be provided to local authorities where possible before the legislation is enacted in order for them to undertake a systematic inspection and enforcement regime of short-term lettings and that the results of these inspections be periodically published.
11. The Committee is of the opinion that the regulations should distinguish between properties occupied and properties being available to view.
12. The Committee is of the opinion that constitutional issues may arise in terms of retrospectively applying the new regulations. The Committee recommends that the Department consults with and receives legal advice from the Attorney General that the proposed regulations do not breach the property rights of citizens guaranteed under the Constitution. The Committee recommends that the Department receives legal assurances that any proposed regulations are challenge-proofed in terms of future court proceedings. Additionally, if there is an established precedent of over seven years regardless of a new letting, what would the situation be then?
13. The Committee is of the opinion that the magnitude of the challenge involved in monitoring and enforcing the new regulations may be problematic. The Committee notes that similar enforcement actions involving the Residential Tenancies Board (RTB) has highlighted difficulties in regard to meeting inspection targets. The Committee recommends that the Department undertake an assessment in conjunction with the local authorities of the capacity and practical demands that will arise in terms of enforcement.
14. The Committee is of the opinion that further clarification is required regarding the appeals mechanism in place available to persons who are denied planning permission arising from the new Regulations. The Committee recommends that the Department confirm that it will be possible to appeal to An Bord Pleanála under the proposed regulations/legislation.
15. The Committee is of the opinion that more extensive analysis and detail is required in order to formulate regulations/legislation that provides the greatest opportunity to achieve the desired outcome. In that regard, the Committee recommends that the Department undertake an impact assessment addressing amongst others the following items:
 - (i) The number of properties expected to be returned to the long-term rental market following the implementation/enactment of the regulations/legislation;
 - (ii) The locations of short-term let properties; and
 - (iii) The types of landlords engaged in the short-term letting market.

¹ Deputy Ó Broin dissents to observations 8, 9, 12, 13, 14 and 15.

² Deputy Barry dissents to observation 9.

16. The Committee is of the opinion that the Department and the Committee should continue to engage as the draft regulations are being formulated. The Committee recommends that it be kept informed of on-going developments relating to the drafting of and revision of proposed regulations affecting the short-term letting market.