

# **Short Term Lets in Scotland Licensing Scheme**

## **Part 1 Guidance for Hosts and Operators**

**March 2022**

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# 1. Introduction

- 1.1. The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022<sup>1</sup> was passed by the Scottish Parliament on 19 January 2022 and came into force on 1 March 2022.
- 1.2. This guidance is intended for hosts and operators of short-term lets in Scotland to explain their responsibilities to comply with this legislation. Hosts and operators may be individuals or organisations such as partnerships, charities, trusts or companies who provide short-term lets.
- 1.3. There is also supplementary guidance for licensing authorities<sup>2</sup> (about establishing and operating licensing schemes for short-term lets), which you can refer to for more detailed information.
- 1.4. Separate planning guidance<sup>3</sup> has been produced for hosts and operators. You should check if your accommodation lies within a control area, as obtaining planning permission may be a requirement of applying for a short-term let licence.
- 1.5. This guidance is non-statutory and should not be interpreted as offering definitive legal advice. If in doubt, you should seek your own legal advice.

## (a) Purpose of guidance

- 1.6. This guidance will help you understand:
  - whether your accommodation falls within scope of the legislation (see Annex A)
  - what you need to do to apply for a licence
  - what you need to do to comply with the requirements of the licensing scheme and relevant regulations
  - your responsibility to comply with the conditions set out in your licence
  - how to renew your licence
- 1.7. Annex A can help you to establish whether your accommodation and premises are classed as short-term lets under the definition set out in the

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<sup>1</sup> [The Civic Government \(Scotland\) Act 1982 \(Licensing of Short-term Lets\) Order 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

<sup>2</sup> <https://www.gov.scot/isbn/9781804351291>

<sup>3</sup> [Short term lets: planning guidance for hosts and operators - gov.scot \(www.gov.scot\)](https://www.gov.scot)

legislation. This guidance is intended for hosts and operators who have established their accommodation and premises is within scope.

- 1.8. Words with a particular meaning are highlighted in bold and explained where they first appear and the explanation is repeated in the glossary at the end of this guidance.

## **(b) Purpose of the licensing scheme**

- 1.9. **Short-term lets** can offer people a flexible and cheaper travel option, and have contributed positively to Scotland's tourism industry and local economies across the country. The Scottish Government has put in place this licensing scheme to ensure basic safety standards are in place across all short-term lets operating in Scotland, while also providing discretionary powers to licensing authorities to address the needs and concerns of local communities. Improved visitor experience and confidence will benefit tourism and the economy.
- 1.10. The aims of the licensing scheme are:
- to ensure all short-term lets are safe;
  - to facilitate licensing authorities in knowing and understanding what is happening in their area; and
  - to assist with handling complaints and address issues faced by neighbours effectively.

## **(c) What the licensing scheme is and where it applies**

- 1.11. The licensing scheme applies to the whole of Scotland and will be implemented by licensing authorities. Your licensing authority is the local authority<sup>4</sup> in whose area your **accommodation** is located.
- 1.12. There are some conditions that every short-term let in Scotland will need to follow – these are called **mandatory conditions** and are primarily about ensuring that **guests** and **neighbours** are safe. They are set out in the Licensing Order and licensing authorities have no choice about implementing these. Many **hosts and operators** will already be complying with these mandatory conditions because some of them are required by existing law and others are best practice.
- 1.13. Licensing authorities can also set **additional conditions** to address any specific local circumstances or concerns. These additional conditions might apply to everyone in that licensing authority area or might be specific to your

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<sup>4</sup> Section 2 of the 1982 Act.

property. Examples of additional conditions are set out in licensing guidance part 2.

#### **(d) How licensing works**

- 1.14. You will need a separate licence for each of your **premises**, whether or not they are in the same licensing authority area. However, a single licence may be issued in respect of unconventional accommodation (not a **dwellinghouse**) where there is more than one separately bookable property on the site.
- 1.15. You do not need a separate licence for short-term lets on the same premises. For example, if you are letting out two rooms in your home, that would be covered by one licence.
- 1.16. Your licence will specify the type of short-term let for which the premises can be used. Licensing authorities will issue a licence for a premises for either:
  - **home sharing;**
  - **home letting;**
  - **home sharing and home letting; or**
  - **secondary letting**

#### **(e) Temporary exemptions**

- 1.17. Your licensing authority can grant temporary exemptions to the requirement to have a licence<sup>5</sup>. They can do this for a specified single continuous period not exceeding 6 weeks in any period of 12 months.
- 1.18. They might do this to accommodate a large influx of visitors over a short period to support sports championship competitions and arts festivals, for example. To get a temporary exemption, you need to apply for one.
- 1.19. There are some important differences between applying for, and operating with, a temporary exemption and having a licence. Your licensing authority might:
  - ask for the application to be made on a different (shorter) form;
  - charge a different (lower) fee;
  - ask for less information than on a licence application; and
  - not apply some of the mandatory conditions.

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<sup>5</sup> Paragraph 1A of schedule 1 to the 1982 Act, inserted the Licensing Order.

- 1.20. Your licensing authority can check and enforce any conditions that are attached to your exemption. Your licensing authority would have the right to visit your premises.
- 1.21. Your licensing authority may choose not to issue any temporary exemptions under any circumstances or may have specific criteria that they apply. If you think a temporary exemption might be the right approach for your circumstances, you should check your licensing authority's short-term lets temporary exemptions policy statement, which you should be able to find on their website. You should also check whether there is a deadline for applications to be made in order to secure a temporary exemption.
- 1.22. Your licensing authority can grant or refuse an application for a temporary exemption. If they grant your application, you will be given a temporary exemption number (like a licence number).
- 1.23. You should be aware that a temporary exemption from the requirement to have a licence does not affect the way planning rules apply to you. If any temporary changes to planning rules have been made (for example to handle a major international event), your planning authority will publicise these.

#### **(f) Temporary licences**

- 1.24. Licensing authorities can issue temporary licences<sup>6</sup> but they need not do so. If you are granted a temporary licence, it can last for up to six weeks or longer if you have also made an application for a licence. If you have applied for a licence, your temporary licence will last until your licence application is finally determined.
- 1.25. Your licensing authority website will explain whether and how your licensing authority issues temporary licences, including how long it takes to issue them.
- 1.26. If you are granted a temporary licence, you will be given a temporary licence number. You must comply with all the mandatory conditions.
- 1.27. You must not use your premises for a type of short-term let that is outside the scope of your licence. If you want to make a change to the type of letting being carried out, you must apply to the licensing authority that issued the licence.

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<sup>6</sup> Under paragraph 7(6) of schedule 1 to the 1982 Act.

## (g) What happens next

1.28. Licensing authorities must have their licensing scheme ready to receive applications by 1 October 2022.

1.29. After 1 October 2022:

- **new hosts and operators** will need to have a licence. This means that, if you were not using your premises to provide short-term lets before 1 October 2022, you can advertise but not take bookings or receive guests until you have obtained a licence.
- **existing hosts/ operators** (those using accommodation to provide short-term lets before 1 October 2022) have until 1 April 2023 to apply for a licence. During this period you can operate without a licence (by continuing to take bookings and receiving guests) unless your licence has been determined, and your application rejected. You will need to be able to prove that you used the property for short-term lets, for example through evidence of bookings and payments, as part of your initial application. After 1 April 2023, existing hosts can only continue to operate if they have:
  - a) Submitted an application for a licence on or before 1 April 2023 that has not yet been determined; OR
  - b) Been granted a short-term let licence.

1.30. On or after 1 October 2022, it is a criminal offence for any person to continue to operate after their licence application has been determined and refused.

1.31. All short-term lets in Scotland will need to be licensed by 1 July 2024. On or after 1 July 2024 operating without a licence is unlawful in all cases.

1.32. This is summarised in the following table:

Period	Rules for hosts and operators
From 1 October 2022	<ul style="list-style-type: none"><li>• New hosts must not operate without a licence</li><li>• Existing hosts can operate without a licence (but must continue to comply with existing laws and regulations)</li><li>• Existing hosts should use this time to make a licence application.</li><li>• Existing hosts must cease operating within 28 days if their licence application is refused (guests should be asked to leave immediately if they are at serious</li></ul>

	risk of harm). Guests with affected bookings should be offered a full refund.
From 1 April 2023	<ul style="list-style-type: none"> <li>• New hosts must not operate without a licence</li> <li>• Existing hosts can operate without a licence but only if they have submitted an application and it has not been determined. They should make it clear in their terms and conditions that bookings are conditional on compliance with the licensing scheme.</li> <li>• Existing hosts must cease operating within 28 days if their licence application is refused (guests should be asked to leave immediately if they are at serious risk of harm). Guests with affected bookings should be offered a full refund.</li> </ul>
From 1 July 2024	<ul style="list-style-type: none"> <li>• All hosts must have a licence</li> <li>• Any host must cease operating within 28 days if their licence application is refused</li> </ul>

1.33. Operating without a licence is a criminal offence so it is important to get a licence in good time if you need one.

## **(h) Development of the licensing scheme and guidance**

1.34. This guidance has been produced by the Scottish Government with input from a [stakeholder working group](#). You can find out more about how the licensing scheme was developed on the Scottish Government website: [Short-term lets: regulation information - gov.scot \(www.gov.scot\)](#)

## **(i) Updates**

1.35. This version of the guidance relates to the Licensing Order approved by the Scottish Parliament on 19 January 2022 but will be kept under review and updated as required.

1.36. The latest version will always be available at: [Short-term lets: regulation information - gov.scot \(www.gov.scot\)](#)

## 2. Getting ready to apply for a licence

2.1. Before you apply for a licence, you should be aware that in assessing your application, your licensing authority will consider:

- your suitability and that of the other people named on your application form;
- your compliance / ability to comply with the mandatory conditions (applicable to all short-term lets across Scotland);
- your compliance / ability to comply with any additional conditions that the licensing authority might attach to your licence (either specific to your accommodation, or specific to short-term lets in your local authority); and
- the suitability of your premises in the context of the licensing authority's policies.

2.2. In addition, you should check your local authority's planning policies to find out if you need to obtain planning permission before applying for a licence. Further information is set out in the Planning Guidance for Short-term Lets<sup>7</sup>.

### (a) Planning permission<sup>8</sup>

2.3. You are advised to check whether you need planning permission to use your property to provide short-term lets, see the **planning guidance**. Your licensing authority can refuse to consider your application if it looks like you need planning permission and you do not have it.

2.4. This mandatory licence condition<sup>9</sup> is only relevant if:

- your premises is in a control area – if in any doubt, check with your planning authority;
- you are using it for secondary letting; **and**
- it is a dwellinghouse.

2.5. If this applies to you, then you must have made an application for planning permission or already have planning permission before you apply for a licence. You must also make sure that you continue to have planning permission whilst you have a licence.

2.6. It is possible that your planning authority could designate a control area affecting your premises after you have been granted a licence. To comply with

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<sup>7</sup> [Short term lets: planning guidance for hosts and operators - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2019/06/Short-term-lets-planning-guidance-for-hosts-and-operators.pdf)

<sup>8</sup> Paragraph 12 of schedule 3 of the Licensing Order.

<sup>9</sup> Of course, you must comply with planning law more generally but this is a mandatory condition of the short-term let licence application requirements which you must comply with for licensing purposes.

this licence condition, you should submit a planning application as soon as possible after the control area is designated. Your licensing authority will make reasonable allowance for you to do this.

- 2.7. In general, licence fees are not refundable. The Scottish Government expects licensing authorities to publish their policy on refunds so you can see your licensing authority's position before you make an application. Therefore, if you have been granted a licence, and are subsequently refused planning permission following the designation of a control area we do not expect you will be refunded.

### **(b) Who can make an application**

- 2.8. Before you make an application for a licence, you must identify all the people who need to be named on the application form.
- 2.9. You, as the host or operator, can apply for a licence to use your (or someone else's) premises to provide short-term lets. You can also ask another person to make the application on your behalf. For example, you might ask:
- your solicitor; or
  - your letting agency or property management company.
- 2.10. You, as the host or operator, are the person responsible for granting agreements with guests to use the property, even if this is delegated to another person or company on a day-to-day basis.
- 2.11. If you do not own the premises, then you must have the permission of the owner(s) to make an application for a licence. For example, you may be a tenant and want to use your property for home sharing or home letting. You should first make sure that your tenancy agreement would allow you to do this in general terms and then seek the specific permission of your landlord.

### **(c) Information required about those named on the application**

- 2.12. You should be ready to provide the following information on your application form.
- a) If you are applying as an individual:
- your full name;
  - your date and place of birth;
  - your address;
  - your address history for last five years; and
  - e-mail and telephone number.

- b) If you are applying as a corporate entity (e.g. company or charity):
- your full name;
  - the address of its registered or principal office;
  - the names and private addresses and dates and places of birth of its directors, partners or other persons responsible for its management, including trustees in the case of charities.

2.13. Where you intend to appoint somebody else to manage your property, similar details must be provided for your agent or day-to-day manager, irrespective of whether you are applying as an individual or a corporate entity.

2.14. You must have the consent of the owner (or each owner) and your application will be refused if that is not provided. Where premises are owned by multiple owners, you must provide:

- a) a declaration from each other owner, or each owner, that they consent to the application, or
- b) a declaration from a person who is authorised to act on behalf of all the owners.

#### **(d) Mandatory conditions**

2.15. The licensing scheme requires all short-term lets to comply with mandatory conditions which apply in Scotland<sup>10</sup>. You therefore need to check you comply before making your application and, if relevant, undertake work to ensure you meet the conditions.

2.16. You may be able to do some or most of the checks and work yourself by following this and other guidance (depending on your own background, qualifications and experience). Where you do need assistance, it is worth noting a number of local authorities operate trusted trader schemes, which can help you to find honest and reliable tradespeople.

2.17. The mandatory conditions relate to:

- day to day management of the short-term let only being carried out by the holder of the licence (see 3.10 to 3.14)
- only operating under the type of licence you have been granted (see 3.1)
- fire safety
- gas safety
- electrical safety
- water safety
- safety and repair standards

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<sup>10</sup> Set out in schedule 3 of the Licensing Order.

- maximum occupancy
- displaying information (see 5.1)
- planning permission (see 2.3 to 2.6)
- listings (see 5.2)
- insurance
- payment of fees
- providing true and accurate information (i.e. not providing false and misleading information)

### ***Fire safety: general***

- 2.18. The Licensing Order sets out some conditions around fire safety which your licensing authority will want to check for licensing purposes. Please note that you must also comply with other requirements in the Fire (Scotland) Act 2005, which the Scottish Fire and Rescue Service are responsible for enforcing.
- 2.19. The 2005 Act requires the person who has control of the premises to provide fire safety measures, including risk reduction measures, means of fire warning, fire-fighting, escape, staff training and instruction, as well as emergency procedures. It sets out fire safety responsibilities and seeks to ensure people are safe from harm caused by fire.
- 2.20. You must take appropriate action to:
- assess the risk from fire in your premises;
  - identify the fire safety measures necessary as a result of the assessment of risk;
  - implement these fire safety measures, using risk reduction principles;
  - put in place fire safety arrangements for the ongoing control and review of the fire safety measures;
  - comply with any further specific requirements of the fire safety regulations;
  - keep the fire safety risk assessment and outcome under review; and
  - maintain good records.
- 2.21. You can find out more in [Practical Fire Safety Guidance For Premises with Sleeping Accommodation](#). Broadly speaking, Annex 2 of this guidance is aimed at premises used for secondary letting with no more than 10 guests and home sharing with no more than 8 guests. If you are in doubt about your legal obligations, you may wish to seek further advice.

- 2.22. You can find out more information about how to conduct a fire risk assessment from the Scottish Fire and Rescue Service, including information about registered and accredited fire risk assessors.

**Fire safety: the premises<sup>11</sup>**

*You must ensure your premises has satisfactory equipment installed for detecting, and for giving warning of—*  
*(a) fire or suspected fire, and*  
*(b) carbon monoxide present in a concentration that is hazardous to health.*

- 2.23. This is stated explicitly in the Licensing Order and applies to all premises. (It is the same as the repairing standard.) Therefore, every host and operator should be complying with this requirement.
- 2.24. You must make sure you have taken adequate steps to ensure fire prevention, including fitting and maintaining working smoke and carbon monoxide alarms. Further details can be found in [Tolerable Standard Guidance: Satisfactory Fire Detection and Satisfactory Carbon Monoxide Detection](#).

**Fire safety: furniture and fittings**

*You must—*  
*a) ensure that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988,*  
*b) keep records showing that all upholstered furnishings and mattresses within the premises comply with the Regulations.*

- 2.25. You could comply with this condition by:
- keeping photographic evidence;
  - removing and retaining the labels themselves; or
  - keeping receipts which confirm compliance (for example by providing a reference number or accurate description of the product).
- 2.26. You do not have to ensure that furnishings and mattresses retain their fire safety labels. This might be difficult to rely on because guests might deface or remove them.

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<sup>11</sup> Paragraph 3 of schedule 3 of the Licensing Order.

- 2.27. If you are home sharing (letting out a room in your home), the requirement does not apply to areas of your accommodation to which your guest does not have access, for example your bedroom.

### **Gas safety<sup>12</sup>**

*Where your 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 not let their accommodation until the works necessary to bring the appliance to the required safety standard have been carried out.*

- 2.28. When you apply, you must be able to provide confirmation (if requested) that a currently valid, annual gas safety check has been carried out on all gas appliances by a Gas Safe registered engineer.
- 2.29. If your licence lasts for more than one year, it is your responsibility to ensure that a gas safety inspection is completed each year.
- 2.30. If you do not use any form of gas (you have no gas connection or private storage tank), then you do not need to take any action.

### **Electrical safety<sup>13</sup>**

*If you have electrical fittings or items in the premises, you 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 or 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.**

- 2.31. A competent person must produce both the Electrical Installation Condition Report and the Portable Appliance Testing Report but it need not be the same

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<sup>12</sup> Paragraph 5 of schedule 3 of the Licensing Order.

<sup>13</sup> Paragraph 6 of schedule 3 of the Licensing Order.

person. The definition of an Electrical Installation Condition Report is set out in the Licensing Order<sup>14</sup>.

- 2.32. The Scottish Government has produced [statutory guidance on electrical installations and appliances in private rented property](#). Annex A of that guidance sets out who is competent to conduct an Electrical Installation Condition Report and you should have regard to this advice. Electrical Safety First have also produced a [landlords' guide to electrical safety](#). You will find these helpful as the standards that apply to private residential tenancies also apply to short-term lets.
- 2.33. At the time of this guidance publication, the minimum standard for electrical safety inspections to be carried out is at least every five years, as set out in the IET wiring regulations BS 7671.

#### **Water: private supplies<sup>15</sup>**

- 2.34. If your premises is supplied with water from Scottish Water, then you do not need to take any further action in respect of this condition.
- 2.35. If your premises has a private water supply, then you must comply with requirements on the owners of private dwellings in the 2017 Regulations. You can find more information and guidance from the Drinking Water Quality Regulator for Scotland: [Guidance on the Water Intended for Human Consumption \(Private Supplies\) \(Scotland\) Regulations 2017 | DWQR](#).

#### **Water: Legionella<sup>16</sup>**

*You must assess the risk from exposure to Legionella within your premises, whether or not it has a private water supply.*

- 2.36. The Legionella risk assessment does not need to be carried out by a professional; you can do it yourself. The risks from hot and cold water systems in most residential settings are generally considered to be low because water is used regularly and does not stagnate.
- 2.37. You are advised to keep a brief record of what assessment you did, as your licensing authority may want to see it. Your licensing authority may also provide a template legionella risk assessment form which you can use to complete your assessment.

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<sup>14</sup> Paragraph 18 of schedule 3 of the Licensing Order.

<sup>15</sup> Paragraph 8 of schedule 3 of the Licensing Order.

<sup>16</sup> Paragraph 9 of schedule 3 of the Licensing Order.

2.38. You can find out more on the [Health and Safety Executive webpage on legionella and landlords' responsibilities](#)

### **Safety**

2.39. Generally, you must take all reasonable steps to ensure the premises is safe for residential use<sup>17</sup>. The Licensing Order and this guidance cannot anticipate every circumstance. Safety may be checked by a suitably qualified council official, such as an Environmental Health Officer. They will tailor any inspections they carry out to the particular circumstances of your premises.

### ***The repairing standard for houses and flats***<sup>18</sup>

***Where your premises is a dwellinghouse, you must ensure that the premises meet the repairing standard.***

2.40. The [repairing standard](#) requires:

- your premises to be wind and water tight and in all other respects reasonably fit for people to live in;
- the structure and exterior (including drains, gutters and external pipes) must be in a reasonable state of repair and in proper working order;
- installations for supplying water, gas and electricity and for sanitation, space heating and heating water must be in a reasonable state of repair and in proper working order;
- any fixtures, fittings and appliances that you provide for guests must be in a reasonable state of repair and in proper working order;
- any furnishings that you provide for guests must be capable of being used safely for the purpose for which they are designed;
- the premises must have a satisfactory way of detecting fires and for giving warning in the event of a fire or suspected fire;
- the premises must have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
- the premises must meet the statutory [tolerable standard](#).

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<sup>17</sup> Paragraph 10 of schedule 3 of the Licensing Order.

<sup>18</sup> Paragraph 10(2) of schedule 3 of the Licensing Order, which applies the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006.

- 2.41. The Tolerable Standard is the minimum standard for all housing, and a home which falls below this standard is considered to be unfit for human habitation.
- 2.42. The Repairing Standard is higher (and all housing which meets the Repairing Standard must meet the Tolerable Standard). Private residential tenancies and HMOs are also required to meet the requirements of the Repairing Standard.
- 2.43. If you are using a dwellinghouse for secondary letting, you must have a valid EPC certificate issued within the last 10 years. Note that you can be fined for failing to hold a valid EPC certificate for your premises under building standards legislation<sup>19</sup>. Guidance on EPC requirements for holiday lets can be found here: [Energy Performance Certificates for Holiday Lets: guidance - gov.scot \(www.gov.scot\)](https://www.gov.scot/Topics/energy/energy-performance-certificates-for-holiday-lets-guidance) If you have bought your property recently, you may wish to refer to the Home Report for the property. EPC's are typically included within Home Reports.

### **Maximum occupancy<sup>20</sup>**

*You must ensure that the number of guests residing in the premises does not exceed the number specified in the licence.*

- 2.44. You should state in your application how many guests you would like to accommodate. Check with your licensing authority as it may publish criteria on maximum occupancy to help you work this out for your premises.
- 2.45. The licensing authority will want to consider the number of beds, bedrooms, size of the premises and means of escape. It may wish to visit your premises or ask to see floor plans.
- 2.46. Your licensing authority may specify on your licence that your guests may bring a certain number of small children and these would not count towards the occupancy of the premises. Children above the age limit specified on your licence and any additional children of any age would count towards the occupancy.
- 2.47. Your licensing authority will consider the facts and circumstances of your application and determine the maximum number of guests you can accommodate (and your licence will state this).
- 2.48. However, the licensing authority may also consider:

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<sup>19</sup> The Energy Performance of Buildings (Scotland) Regulations 2008. See [Energy Performance Certificates: introduction - gov.scot \(www.gov.scot\)](https://www.gov.scot/Topics/energy/energy-performance-certificates-introduction).

<sup>20</sup> Paragraph 11 of schedule 3 of the Licensing Order.

- a) the maximum number that can be accommodated safely; and
- b) the maximum number that can be accommodated within tolerable noise and nuisance standards for neighbours.

2.49. If they grant your application, they will normally set the lowest number out of: the number you asked for; the maximum safe number; and the maximum tolerable number.

### ***Insurance for buildings and public liability<sup>21</sup>***

*You must, for the duration of the licence, ensure there is in place for the premises—*  
*(a) valid buildings insurance, and*  
*(b) valid public liability insurance for the duration of each short-term let agreement .*

2.50. This condition is important to protect your interests, those of the owner of your premises, neighbours and guests, should any accident, damage or injury occur. You must make sure that insurance cover remains in place for the duration of each short-term let agreement.

2.51. The buildings insurance must cover the short-term let activity but this could be through your own insurance policy or through a shared policy covering the premises (e.g. for an apartment block) or insurance taken out by the owner.

### ***Payment of fees<sup>22</sup>***

*You must pay any fees due to the licensing authority in respect of the licence on demand.*

2.52. Your application will not be considered unless you pay the relevant fee. Your licence will also not be renewed if you do not pay the appropriate renewal fee. Some licensing authorities might allow fees to be paid in instalments and your licence might be suspended or revoked if you do not keep up with your payments.

### ***False or misleading information<sup>23</sup>***

*You must not provide any false or misleading information to your licensing authority.*

<sup>21</sup> Paragraph 15 of schedule 3 of the Licensing Order.

<sup>22</sup> Paragraph 16 of schedule 3 of the Licensing Order.

<sup>23</sup> Paragraph 16 of schedule 3 of the Licensing Order.

2.53. You must provide all relevant information and be honest in your application and subsequent communications with the licensing authority, for example when:

- your licensing authority asks you about your short-term let activity;
- your licensing authority visits your premises;
- you make a request of the licensing authority to change the terms of your licence; or
- you apply to renew your licence.

2.54. You should provide relevant information about the (anticipated) use of private outdoor facilities, communal areas and communal outdoor facilities, as these can be places of particular concern to residents and neighbours.

2.55. It is an offence to provide false or misleading information to your licensing authority. They could suspend or revoke your licence. You might also have to pay a fine, currently up to £2,500.

### **(e) Additional conditions**

2.56. Before you apply, check the licensing authority's website to find out whether additional licence conditions may be applied to your licence<sup>24</sup>. These conditions may be specific to you, apply to you and others in similar circumstances or apply to everyone in the licensing authority's area. They might do this is because of particular local circumstances or because there is something special or unusual about your premises.

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<sup>24</sup> These are called standard conditions in section 3B of the 1982 Act.

### **3. Making an application for a licence**

#### **(a) Overview**

- 3.1. For each premises, you need to decide whether you are applying for:
- a) a licence for home sharing;
  - b) a licence for home letting
  - c) a licence for home sharing and home letting; or
  - d) a licence for secondary letting.
- 3.2. This is because your licensing authority will only grant one type of licence per premises and may treat these applications differently, for example in terms of fees payable or if your premises is in a control area.

#### **(b) Application checklist**

- 3.3. The checklist at Annex B may support you in preparing your application, however, please view the licensing authority's website to check any additional points (e.g. around fees and additional conditions) specific to that authority that may apply.
- 3.4. Your licensing authority website will have a copy of the application form and instructions about how to complete and submit it.
- 3.5. Your application will be considered incomplete and returned to you if you do not include all the information requested.

#### **(c) Who should be named on the application**

##### ***Hosts and operators***

- 3.6. You, as the host or operator, should be named on the application form.

##### ***Owners***

- 3.7. The owner(s) of the premises should be named on the application form.
- 3.8. Where accommodation or premises is jointly owned, all owners must be named on the application form.
- 3.9. Where accommodation or premises is owned by a business, for example as part of a portfolio, all company directors, partners, or other persons responsible for its management must be named on the application form.

### ***Day-to-day management***

- 3.10. Any people that you are asking to carry out the day-to-day management of your accommodation should be named on your application. For example, this might be a spouse, a friend or someone you employ.
- 3.11. If you have a letting agency to manage your accommodation, then your application form should name the directors, partners or others responsible for the letting agency. However, the employees of the agency do not need to be named.
- 3.12. You should not name everyone with any involvement in your arrangements. For example, cleaners and others who enter the premises are not to be named on your application for that reason alone.
- 3.13. After the licence is granted, you may decide to make different arrangements for the day-to-day management of your premises (such as passing responsibility for the day-to-day management to a letting agency) but you must first notify and obtain the approval of your licensing authority.
- 3.14. If you want to appoint a new agent or day-to-day manager of your premises, you should contact your licensing authority to find out how to make that change.

### **(d) Owners' consent**

- 3.15. Where accommodation is owned by multiple owners either of the following will be required:
  - a) a declaration from each other owner, or each owner, that they consent to the application, or
  - b) a declaration from a person who is authorised to act on behalf of all the owners.

### **(e) Fit and proper person test**

- 3.16. Everybody named on the application form will be subject to the fit and proper person test.
- 3.17. Licensing authorities are responsible for determining whether you are a fit and proper person to offer property for short-term lets in their area. Your licensing authority is likely to take account of the following:
  - a) relevant criminal convictions and other relevant information from the police;

- b) being disqualified from being a private landlord or having had letting agent or property factor registration revoked now or in the past;
  - c) having had a licence for short-term lets or House in Multiple Occupation (HMO) revoked by any licensing authority;
  - d) having had an application for a short-term lets licence refused by any licensing authority; and
  - e) providing false or misleading information in an application for a short-term lets licence, HMO licence or application to be a private landlord.
- 3.18. Licensing authorities can also consider any other information they consider to be relevant. They will liaise with the police for information as appropriate. They have powers to request additional information, or make reasonable enquiries, for example to verify the details of all property owners.
- 3.19. The purpose of collecting this information is to assess the fitness of applicants and any agents (or day-to-day managers) to be involved in providing property for short-term lets.
- 3.20. The purpose of these checks is to: protect neighbours, guests and other people from harm and crime; and to assist the police in law enforcement.
- 3.21. Your application will be refused by your licensing authority if, in their opinion, you (or your agent) are not a fit and proper person to have a licence<sup>25</sup>.

### **(f) Duration of your licence**

- 3.22. The maximum duration for your first licence is 3 years. When you apply to renew your licence, your licensing authority could grant it for a longer period. Your licensing authority may grant licences of different durations to different hosts and operators. The reason for this should be set out in the licensing authority's policy.
- 3.23. Different licensing authorities may have different policies and you should check your licensing authorities website for more information.

### **(g) Fees**

- 3.24. You will need to pay a fee with your application. The exact fee that you need to pay may depend on a number of factors e.g. how many guests you want to accommodate or the number of bedrooms in your property. Your licensing

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<sup>25</sup> Paragraph 5(3)(a)(ii) of Schedule 1 to the 1982 Act.

authority's website will have information on the fees they charge and the methods of payment they accept.

- 3.25. If you have premises in more than one licensing authority area, the fees you pay may be different, even for a similarly sized property.
- 3.26. If your application is refused, your fee will not be refunded. However, you may receive a partial refund.
- 3.27. If your licensing authority chooses to refuse to consider your application because you need to get planning permission first, they will tell you about this within seven days of making that decision. You will be able to resubmit your licensing application without paying any further fee provided you do this within 28 days of planning permission being granted.

## **4. How your licensing application will be determined**

### **(a) Relevant considerations**

- 4.1. Before considering your application in detail, your licensing authority will consider it in the context of their licensing and planning policies, including:
  - their local development plan;
  - their policy on planning control.
- 4.2. Your licensing authority may refuse to consider your application if they consider it would be a breach of planning control. If your licensing authority refuses to consider your application for this reason, they must tell you within seven days and explain why they are refusing to consider the application.
- 4.3. If your application proceeds to consideration, your licensing authority will look at the following information in assessing your application:
  - whether the people named on your application are fit and proper persons to be involved in providing short-term lets;
  - evidence that you are compliant (or can secure compliance) with the mandatory conditions;
  - whether any additional conditions would be attached to your licence; and
  - any competent objections received, see below.

### **(b) Confirming the facts of your application**

- 4.4. As part of considering your application, your licensing authority will want to check that you and your premises are compliant with the mandatory conditions. They might do this through one or a combination of:
  - a visit to your premises;
  - asking to see relevant documentation; or
  - asking you to declare that you have met the conditions.
- 4.5. Your licensing authority will check some information with Police Scotland and the Scottish Fire and Rescue Service.
- 4.6. The Scottish Government expects licensing authorities will take a risk-based approach to assessing applications for a licence. Premises may be visited as

part of the application process but this may not always be the case. You will not be charged any extra if your premises is visited.

### **(c) Notifying neighbours**

- 4.7. You must notify your neighbours about your application for a new licence, and again when you apply to renew a licence. In order to comply with this requirement you will need to display a site notice at or near your premises, so it can be conveniently read by the public.
- 4.8. The site notice must state the following:
- an application has been made for a licence;
  - various details including the type of licence applied for, name and address of the applicant and any agents, address of the premises; and
  - details on how to make objections and representations.
- 4.9. The site notice should be displayed for 21 days from the date your licence application was submitted to your licensing authority.
- 4.10. Once your site notice has been displayed for 21 days you will be required to send a certificate to your licensing authority confirming you have complied. You may wish to consider submitting evidence to demonstrate compliance, such as a time stamped photograph of the site notice in-situ.
- 4.11. We have prepared a template site notice and certificate of compliance forms in Annex C. Your licensing authority may also have template site notice and certificate of compliance forms which you can use.

### **(d) Handling objections**

- 4.12. Objections may be made by neighbours or any other person who wants to raise an objection.
- 4.13. The primary purpose of the licensing scheme is to ensure short-term lets are safe and take account of local needs and circumstances. Competent grounds for objection to a licensing application may include:
- concerns that the application is inaccurate or misleading;
  - concerns about the safety of guests, neighbours or others;
  - concerns about noise or nuisance; and

- concerns that the application runs contrary to other legal or contractual requirements.
- 4.14. Invalid grounds for objection could include not liking you or not liking short-term lets in general.
- 4.15. Where the objection does not relate to grounds for refusal, these can be disregarded by a licensing authority. They are likely to be disregarded if they relate to another process, for example, an objection to a licensing application on planning grounds.
- 4.16. Your licensing authority will consider any objection which:
- is made in writing;
  - specifies the grounds of the objection, or nature of the representation;
  - specifies the name and address of the person making it; and
  - is signed by the objector, or on their behalf.
- 4.17. Objections should be made within 28 days of public notice of the application being given. Your licensing authority will send you a copy of any relevant objections. You will have the chance to respond to any objections, either in writing or in person.
- 4.18. Your licensing authority will decide whether or not to hold a hearing in respect of an application. It does not have to do so and you cannot challenge its decision to hold a hearing or not, although you can appeal their decision on your application. If the authority does not hold a hearing, they will give you at least seven days to give your views in writing on all the objections received. It is for the licensing authority to determine whether any objection received has a material impact upon the licensing application.

### **(e) The licensing committee**

- 4.19. Where the licensing authority decides to hold a hearing this will be at a meeting of the licensing committee. The licensing committee comprises a number of local councillors who consider licensing applications for a range of purposes such as alcohol and taxis, as well as short-term lets. The licensing committee is likely to consider many licensing applications in one sitting.
- 4.20. If your application goes to the licensing committee, you, and any person who has made an objection, will be given the opportunity to be heard at the meeting of the licensing committee. Your licensing authority will give you, and

any objectors, at least 14 days' notice of the hearing date. The meeting will be held in public, so other members of the public can observe the proceedings.

- 4.21. Objectors will be invited to speak to their objections, and you will be invited to state why your application should be granted.
- 4.22. Members of the committee may follow up with questions, ahead of deciding whether or not to grant your application. The decision and voting may take place in public or the committee may retire to consider and decide the applications.

## **(f) Determining your application**

4.23. Your licensing authority must grant your application unless there are grounds to refuse it. Possible grounds for refusing your application may include<sup>26</sup>:

- anybody named on your application is disqualified from having a short-term lets licence<sup>27</sup>;
- anybody named on your application is not a fit and proper person;
- some other person is benefiting from the activity who would be refused a licence if they made the application themselves;
- the premises are not suitable or convenient having regard to—
  - a) the location, character or condition of the premises;
  - b) the nature and extent of the proposed activity;
  - c) the kind of persons likely to be in the premises;
  - d) the possibility of undue public nuisance; or
  - e) public order or public safety; or
- there is other good reason for refusing the application (this cannot be applied in a blanket fashion without considering the merits of a particular application).
- you cannot demonstrate, or secure, compliance of the mandatory licence conditions

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<sup>26</sup> Set out in paragraph 5(3) of schedule 1 to the 1982 Act.

<sup>27</sup> Under section 7(6) of the 1982 Act.

- you cannot secure compliance with any other conditions the licensing authority seek to apply in respect of your application.

## **(g) Timescales for determination**

- 4.24. Existing hosts who make an application before 1 April 2023 can continue operating whilst their application is being determined<sup>28</sup>. Licensing authorities have 12 months to determine these applications, beginning with the date on which the application was made. This extension, to the time limit for determining an initial application, is designed to help them manage the volume of applications they will receive.
- 4.25. In all other cases, licensing authorities have 9 months from the date on which the application was made to consider and determine each application.
- 4.26. If your licensing authority fails to determine your application within the timescales set out above, your licence will be deemed to have been granted, unless the licensing authority has been granted an extension by the court. If your licence were deemed to be granted, it would be valid for one year. The mandatory licence conditions that apply to all short-term lets would also apply to the deemed grant of a licence.

## **(h) Your rights of appeal**

- 4.27. You can appeal against your licensing authority's decision<sup>29</sup> by [summary application](#) to the sheriff. A Summary Application is made by initial writ and a style can be accessed here ([Form 1](#)). You may wish to familiarise yourself with the relevant [Summary Application Rules](#). You may also wish to seek advice and can contact your local [Citizens Advice Bureau](#) or you can get contact details for solicitors from the [Law Society of Scotland](#). Sheriff clerk staff cannot give you legal advice in respect of your appeal.
- 4.28. You have to appeal within 28 days from the date of the licensing authority's decision, unless you have a good reason for being late. The sheriff can decide whether to consider a late application for an appeal.
- 4.29. The sheriff may uphold your appeal only if he considers that the licensing authority, in arriving at their decision –
- erred in law;
  - based their decision on any incorrect material fact;

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<sup>28</sup> Article 6 of the Licensing Order.

<sup>29</sup> The appeals process is set out in paragraph 18 of schedule 1 to the 1982 Act.

- acted contrary to natural justice; or
- exercised their discretion in an unreasonable manner.

4.30. If the sheriff upholds your appeal, the sheriff may either ask the licensing authority to reconsider their decision or change the decision of the licensing authority.

### ***How much does an appeal cost?***

4.31. You will have to pay any solicitor that you instruct to help you as well as [court fees](#) for lodging the initial writ. Additionally, the sheriff may make an order for one or other party to pay the other party's costs. For example, the licensing authority may have to pay your costs in making the appeal if the sheriff finds that they acted unreasonably in making their decision. You may be entitled to an exemption from paying court fees depending on your circumstances.

### **(i) Time limit on reapplying**

4.32. If your application for a licence is refused, you cannot reapply for a licence within one year of that decision, unless there has been a material change in your circumstances since then. You may be asked by your licensing authority to provide a covering letter setting out any material changes that have occurred alongside any new application made within one year of the decision to refuse your licence.

### **(j) How your data will be managed**

4.33. Licensing authorities are responsible for ensuring compliance with UK General Data Protection Regulations, as data controllers and for the storage, handling and disposal of all data related to licence applications they receive.

4.34. Certain personal data will be shared, for specific purposes, as follows:

- Within and between local authorities, Scottish Fire and Rescue Service and Police Scotland as part of the notification process in order to carry out background checks.
- Published in public registers of licences (by each licensing authority).
- Quarterly submissions to Scottish Government, so that data on licences from each local authority can be amalgamated at a national level, and to review against policy objectives. No personal data will be published in Scottish Government reports on short-term letting activity.

- 4.35. Further details on data processing can be found in the Data Protection Impact Assessment (DPIA) in the [2020 consultation report](#). Information about the processing of personal data is set out section C of the DPIA.
- 4.36. The following **personal** information will be published in the register:
- Names and registered offices (where an application is made on behalf of a company / corporate body only).
  - Names of any day-to-day managers
  - The address of your premises (including postcode and Unique Reference Number (URN) ).
- 4.37. Other information about your short-term let will also be published in the register, including the type of short-term let you operate, and maximum number of guests permitted to reside on the premises.
- 4.38. The following **personal** information from your application or from Police Scotland background checks will be retained:
- Your contact details
  - The contact details of other people named on your application form
  - Date and place of birth (for all applicants, and any agent(s))
  - Unspent convictions involving: fraud and dishonesty; violence; drugs; firearms; and sexual offences.

***How long will my data be stored for?***

- 4.39. Your licensing authority must not keep your personal data for longer than needed and is responsible for storing your data, then disposing of it when it is no longer needed. Your personal information will only be held for as long as it is necessary for the effective administration of the licensing scheme.

## 5. Responsibilities upon obtaining a licence

### (a) Information to be displayed<sup>30</sup>

*You 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.*

- 5.1. How you do this is up to you. You might display the information on a notice board or in a folder containing details about the premises. The important point is that guests can access it easily. You may also wish to consider providing digital copies alongside booking confirmation.

### (b) Listings to include licence number, maximum occupancy and EPC rating<sup>31</sup>

*You must ensure that any listing or advert (whether electronic or otherwise) for your premises includes—*

- a) the licence number,*
- b) the maximum number of guests permitted to reside in the premises, and*
- c) a valid Energy Performance Certificate rating, if you are required to have one for the premises.*

- 5.2. Where you have a licence, you must display your licence number on any listing or advert. Displaying your licence number will help guests to know that the accommodation meets the standards of the licensing scheme.
- 5.3. Where you have electronic listings or adverts, for example on your own website or on a platform, you should update your listing or advert as soon as reasonably practicable after receiving your licence.
- 5.4. Licensing authorities and letting agencies (platforms) will conduct checks to ensure that licence numbers on listings and adverts are genuine and that these requirements are complied with.

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<sup>30</sup> Paragraph 11 of schedule 3 of the Licensing Order.

<sup>31</sup> Paragraph 13 of schedule 3 of the Licensing Order.

- 5.5. You should be clear on any advert or listing, and in your booking terms and conditions, on the maximum number of guests that you can accommodate under the terms of your licence.
- 5.6. You must display your EPC rating where you are required to have a valid EPC certificate. This will give your guests an idea about the energy performance of your property and also an indication of how costly the property is to heat, if they have to pay for it.
- 5.7. Listings only need to display the EPC rating, not the full certificate. However, licensing authorities may wish to request a copy of the certificate as part of the licence application verification process. Note that you can be fined for failing to display an EPC rating for your premises on listings under existing building standards legislation.
- 5.8. If your application has been refused or your licence has been revoked, as soon as you are notified, you should take down any adverts or listings for your property. Using your property for short-term lets would be an offence (operating without a licence) and your adverts or listings could be perceived or used as evidence of your intention to break the law.

## **6. Staying compliant**

### **(a) Complying with licence conditions**

- 6.1. You are responsible for ensuring that your short-term let activity complies with the mandatory conditions and any additional conditions which your licensing authority attaches to your licence.
- 6.2. It is important to remember that you will need to take further action in the course of your licence, for example making sure that annual and other regular checks are undertaken. You are also responsible for taking all reasonable steps to ensure that your guests comply with your licence conditions.
- 6.3. Failure to maintain the mandatory conditions would be a breach of your licence conditions and you could be fined or lose your licence(s) if you do so. It is important that you keep evidence of how you have complied with the conditions, for example records of safety checks and service visits.

#### ***Maintaining standards***

- 6.4. You should make sure that you are alert to changes in standards through legislation or guidance that will from time to time occur. Signing up to communications from professional or trade bodies can help to alert you.

#### ***Taking property out of service***

- 6.5. Sometimes, it will be necessary to take some of your accommodation out of service because it has become unsafe (or otherwise does not comply with your licence conditions). This may be because:
  - a guest has caused damage;
  - a fire has occurred; or
  - you are carrying out work which makes (that part of) the property unsafe whilst the work is carried out.
- 6.6. Depending on the nature of the issue, it may mean that one of your guest bedrooms or your whole premises cannot be used. Where you have several lets on one premises (e.g. yurts in a field), you may have taken one out of service but the remainder may be usable.
- 6.7. You can continue to let (parts of) the accommodation which comply with your licence conditions but it would be an offence (failing to comply with licence conditions) to let accommodation which had become (temporarily) unsafe.

## ***Preventing antisocial behaviour***

6.8. You may find that some of your guests get involved with antisocial behaviour in or around your premises, affecting neighbours and local community. Antisocial behaviour legislation defines it for these purposes as:

*“A person engages in antisocial behaviour if the person:*

- a) acts in a manner that causes or is likely to cause alarm, distress, nuisance or annoyance; or*
- b) pursues a course of conduct that causes or is likely to cause alarm, distress, nuisance or annoyance, to a person residing in, visiting or otherwise engaging in lawful activity at, or in the locality of, a relevant house.”*

6.9. You might want to consider the following measures:

- setting clear standards so your guests are aware of what might be antisocial in Scotland and in your particular premises (for example this can vary between cultures and some premises may be distinctive);
- investigating any complaints from neighbours;
- taking action to advise and warn guests (for example, on reducing noise nuisance);
- enforcing the terms of your booking, for example non-refund of a deposit for failing to comply with it;
- terminating a short-term let early; and, in the worst case,
- involving the police (e.g. to tackle drunken aggressive behaviour).

6.10. You might want to keep a record of the measures you took as this might help you demonstrate that you remain a fit and proper person to provide short-term lets.

## **(b) Requesting changes to your licence**

6.11. You might want to change the way you provide short-term lets. For example, you might want to:

- change your letting agency or property management company;
- make physical alterations to the premises;

- increase the number of guests at your premises; or
  - increase the number of rooms you want to use for guests.
  - or your personal details might change.
- 6.12. You must notify your licensing authority of any significant changes relevant to your licence. Some changes will require the licensing authority's approval before they can happen. It is an offence to fail to notify or seek approval of significant changes. If you are unsure whether your (proposed) changes require notification or approval, please contact your licensing authority for advice and confirmation of whether a fee will be payable.

### ***Selling your premises***

- 6.13. Your licence is specific to you (whether as a person or a company) and your accommodation. This means you cannot simply hand your licence over to someone else, even if that person has purchased the accommodation from you and wants to carry on providing short-term lets.
- 6.14. Where you are selling your premises to someone who will use that premises for a different purpose, you should advise your licensing authority that you want to surrender your licence (see below).
- 6.15. In some circumstances, the purchaser may wish to continue providing short-term lets. This could arise where:
- you are selling your own home and had a licence to use it for home letting or home sharing; or
  - you are selling premises which are not your own home and had a licence to use that premises for secondary letting.
- 6.16. In all cases, the purchaser will need to make a fresh licence application. It is important that the purchaser understands that the licensing authority will consider their application on its merits in accordance with their policies at that time. There should be no presumption that the purchaser's application for a licence would be granted.
- 6.17. Where a licensing authority wanted to support the purchaser in continuing to provide short-term lets without significant delay, the licensing authority could grant the purchaser a temporary licence pending consideration of their licence application.

### **(c) Visits to your premises**

- 6.18. Your licensing authority can choose to visit your premises and inspect both the premises and any records associated with the conditions attached to the licence. They are not obliged to visit your premises.
- 6.19. They may visit: as part of considering your application; as part of a routine pattern of inspection; because a complaint has been made by a guest or neighbour; or to follow-up on a previous visit to confirm that an issue has been resolved.
- 6.20. Your licensing authority must give a reasonable period of notice to you (or your agent) ahead of a routine visit.
- 6.21. You will not be charged a fee for a routine visit. However, you may be charged if a (follow-up) visit is necessary because you have breached one of your licence conditions.
- 6.22. Your licensing authority can make unannounced inspections as a way of ensuring licence terms and conditions are adhered to at all times. An unannounced inspection may be the only way of proving (or disproving) a violation of some licensing conditions (e.g. occupancy). Licensing authorities can enter your premises forcibly if necessary, but would only do so in very unusual circumstances.
- 6.23. Where a visit raises concerns, your licensing authority can require you to take action to put it right. This will usually be done by serving an enforcement notice (“non-compliance” or “improvement” notice). Such notices are likely to specify a date or date(s) by which you should put things right. If you do not take satisfactory action in time, your licensing authority could vary, suspend or revoke your licence.

### **(d) Suspensions and revocations**

- 6.24. Your licensing authority has the power to suspend or revoke your licence. These are serious steps which are only likely to be taken when you have been given the chance to put things right and failed to do so and/or your guests are at serious risk of harm.
- 6.25. In considering whether to suspend your licence, your licensing authority may make such reasonable enquiries as they think fit. Before making a decision on whether or not to suspend your licence, your licensing authority will consult with Police Scotland and the Scottish Fire and Rescue Service.
- 6.26. Your licence may be suspended whilst the licensing authority considers whether or not to revoke your licence. If your licence is revoked, you will not

be able to make a further application in respect of that premises within one year of the date of revocation.

### **(e) Renewing your licence**

- 6.27. If you want to continue to provide short-term lets after the end of your licence period, you will need to make an application for renewal of your licence before your licence expires. Your licensing authority will set out details of how you should go about this and provide a renewal application form.
- 6.28. You can apply to renew your licence at any time before it expires. If your licence expires before your renewal application is determined, you can continue to use your property to provide short-term lets until your renewal application is determined<sup>32</sup>.
- 6.29. If your licence lapses before you apply, then any subsequent application would be treated as a new application rather than a renewal.
- 6.30. An application for renewal comprises licensing authorities satisfying themselves that:
- a) the matters set out in the application form or previous renewal are still correct and notification of any changes (e.g. around contact details etc.); and
  - b) the applicant remains a fit and proper person;
- 6.31. the premises remains in compliance with the licence conditions. Licensing authorities will also consider any request to make any changes to the terms of the licence.
- 6.32. In common with the application stage, you will be required to display a site notice when you apply for a renewal.
- 6.33. If you request changes to the terms of your licence, then your licensing authority will consider these changes in a similar way as they would for an initial application.
- 6.34. Your licensing authority is likely to charge a fee for a renewal application (unless they operate a subscription model with regular fee payments). The fee may be different to the fee you were charged when you applied previously.
- 6.35. Your licensing authority can change the additional licence conditions attached to your licence at renewal, adding or removing any conditions.

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<sup>32</sup> Paragraph 8(5) and (6) of schedule 1 to the 1982 Act.

- 6.36. Your licensing authority can grant licence periods of longer than three years on a renewal application. They may do this where a property has been used for short-term lets with no issues or complaints during the initial licence period.
- 6.37. Licensing authorities will normally approve licence renewal applications where there has been no change in circumstance since the previous application. Remember that a change of circumstances may arise from your activity or premises or from a change in your licensing authority's policies. If your licensing authority does not renew your licence, then you will have a right of appeal.

#### **(f) Surrendering your licence**

- 6.38. You can surrender your licence to the licensing authority at any time when you no longer want to use your property to provide short-term lets.

## 7. Glossary of terms

7.1. In this guidance, the following terms are used. Please note that this is not a complete list of terms used and defined in the Licensing Order<sup>33</sup>:

<b>“the 1982 Act”</b>	means the <a href="#">Civic Government (Scotland) Act 1982</a> ;
<b>“the Control Area Regulations”</b>	mean the Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 ( <a href="#">SSI 2021/154</a> );
<b>“accommodation”</b>	means any building or structure, or any part of the building or structure, and includes rooms in a home, a whole home or something more unusual like a yurt or a treehouse;
<b>“control area”</b>	means a short-term let control area designated following the process set out in the Control Area Regulations;
<b>“dwellinghouse”</b>	means, for these purposes, an independent dwelling (with its own front door, kitchen and bathroom) such as a house, flat, cottage etc.;
<b>“existing host”</b>	means a host or operator who has used their premises to provide short-term lets before 1 October 2022 and who will apply for a licence to continue the same use;
<b>“guest”</b>	means a person occupying property for the purposes of a short-term let;
<b>“home letting”</b>	means using all or part of your own home for short-term lets whilst you are absent;
<b>“home sharing”</b>	means using all or part of your own home for short-term lets whilst you are there;
<b>“host” or “operator” or “you”</b>	means a person or company providing property for short-term letting, including commercial landlords (note that the host

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<sup>33</sup> The Licensing Order defines many types of property that are excluded from the licensing scheme, for example.

	may not be the owner or person who lives at the property);
<b>“letting agency”</b>	means an organisation which facilitates the agreement between the host or operator and the guest for use of the property as a short-term let and which may additionally provide other services (marketing, bookings, queries, cleaning etc.);
<b>“licensing authority”</b>	means an authority responsible for running the licensing scheme, usually a council;
<b>“mandatory conditions”</b>	means conditions which licensing authorities must apply across Scotland;
<b>“neighbour”</b>	means, for our purposes, someone whose permanent residence is in close enough proximity to a short-term let to have a legitimate interest in its business, e.g. potentially affected by safety, noise, litter, nuisance;
<b>“[your] own home”</b>	means [your] only or principal place of residence, the place where you normally live;
<b>“platform”</b>	means an online letting agency;
<b>“premises”</b>	means the property and land on one site, normally premises have their own postal address;
<b>“secondary letting”</b>	means a short-term let involving the letting of property where you do not normally live, for example a second home;
<b>“short-term let of a property”</b>	means the entering of an agreement between a guest and a host in the course of business for the use of the property as residential accommodation by a guest in circumstances set out in Annex A <sup>34</sup> ;

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<sup>34</sup> Properly defined at article 3 of the Licensing Order.

## Annex A

### 8. What is a short-term let

#### Introduction

- 8.1. If you are providing anyone with residential accommodation anywhere in Scotland, then you might be providing short-term lets.
- 8.2. In this guidance, accommodation means any building or structure that you are letting out for residential use or any part of the building or structure. It may be rooms in your home, a whole house or something more unusual like a yurt or a treehouse.
- 8.3. You need a licence for each premises in which you let out accommodation. Premises means accommodation and land on one site; normally premises have their own postal address. So, for example, two neighbouring cottages are likely to be separate premises (each will require a licence), whereas 15 yurts in one field are likely to be counted as one premises (requiring one licence in total).
- 8.4. For a self-catering cottage, the accommodation and the premises are one and the same. If you are letting out two rooms in your own home, both are classed as accommodation (assuming they can be let out separately) and the whole home is the premises. This distinction is important as some licence conditions will apply to the premises and others just to the accommodation.
- 8.5. In this guidance, your own home means your only or principal home (the place where you normally live).

#### Exclusions

- 8.6. The legislation does set out some exclusions, these are:
  - a) **Licensed accommodation**, under the Licensing (Scotland) Act 2005 where the provision of accommodation is an activity listed in the operating plan, or which otherwise requires a licence for use for hire for overnight stays. If you operate a restaurant with rooms or an inn, for example, which is already licensed specifically to offer accommodation then you are not providing short-term lets. Many hotels are licensed under the 2005 Act and would be excluded. If you provide licensed caravans<sup>35</sup>, you are not providing short-term lets. However, if you have an HMO licence for your property, you would still need a short-term lets licence if it is also to be

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<sup>35</sup> Under the Caravan Sites and Control of Development Act 1960. The Housing (Scotland) Act 2014 inserted a new Part 1A into the 1960 Act creating a new licensing system for relevant permanent sites.

used for short-term lets<sup>36</sup>. This is the case whether or not you live at the premises covered by your HMO licence.

- b) **Accommodation provided by your guests**, for example where they bring their own tent (as opposed to glamping where the tent is normally fixed and provided by the host).
- c) **Mobile accommodation**, which is capable of transporting your guests at the time of their stay. This would exclude, for example where you hire out canal boats or yachts. However, a previously mobile unit that had been immobilised, such as an old tractor or a caravan in a tree would not be excluded.
- d) **Hotels**, with planning consent to operate as a hotel<sup>37</sup>. Note that the majority of hotels are excluded through being licensed to provide accommodation under the Licensing (Scotland) Act 2005 (see (a) above).

8.7. The following types of more specialist types of accommodation are also excluded<sup>38</sup>:

- a) **Aparthotels**, comprising five or more serviced apartments in a residential building. (Note that serviced apartments are defined in the Licensing Order<sup>39</sup>.)
- b) **Health and care accommodation**, such as residential care homes, hospitals and nursing homes.
- c) **Educational accommodation**, such as residential schools, colleges, training centres and purpose-built student accommodation. Student halls of residence, for example, are excluded but houses and flats which are normally let to students are not excluded.
- d) **Secure residential accommodation**, including prisons, young offenders institutions, detention centres, secure training centres, custody centres, short-term holding centres, secure hospitals, secure local authority accommodation or military barracks.
- e) **Hostels and refuges**. A hostel provides residential accommodation and food, or shared facilities to prepare it, other than in a house. Refuges

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<sup>36</sup> For example, where the property was used as an HMO for students during the academic year and for short-term lets for the summer.

<sup>37</sup> I.e. class 7 use as set out in the Town and Country Planning (Use Classes) (Scotland) Order 1997.

<sup>38</sup> Set out in Schedule 1 of the Licensing Order.

<sup>39</sup> Paragraph 3 of Schedule 1 of the Licensing Order.

include accommodation for women escaping domestic violence, for example.

- f) **Shift accommodation.** 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. This excludes accommodation provided by companies and other bodies to employees as part of a contract or to help them perform their duties. For example, caretakers or workers on an oil rig (insofar as the accommodation is within Scottish territorial waters), where shifts extend into multiple days.

8.8. Excluded property extends to property which is part of any of the above. So, for example, self-catering property in the grounds of a licensed hotel would also be excluded.

8.9. If you think any of these exclusions might apply to you, then please refer to schedule 1 of the Licensing Order and the Policy Note<sup>40</sup> for more information.

## Types of short-term let

8.10. The legislation<sup>41</sup> defines four types of short-term let as follows:

- **“home sharing”** means using all or part of your own home for short-term lets whilst you are there;
- **“home letting”** means using all or part of your own home for short-term lets whilst you are absent, for example whilst you are on holiday;
- **“secondary letting”** means the letting of property where you do not normally live, for example a second home; and
- **“home letting and home sharing”** means you operate short-term lets from your own home while you are living there and also for periods when you are absent.

## Questions to consider

8.11. The definition of a short-term let is set out in the Licensing Order and explained in the accompanying Policy Note. The following questions will guide you through the definition. You might also find it helpful to refer to the application checklist at **Annex B**.

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<sup>40</sup> [The Civic Government \(Scotland\) Act 1982 \(Licensing of Short-term Lets\) Order 2022 \(legislation.gov.uk\)](#)

<sup>41</sup> In paragraph 19A of schedule 1 to the 1982 Act (inserted by paragraph 14 of the Licensing Order).

### ***Have you made an arrangement in the course of business?***

- 8.12. An arrangement in the course of business will normally involve setting out some terms and conditions in a contract which your guest has accepted. An arrangement in the course of business includes taking a booking on-line or over the phone, for example. It does not matter whether your guests are staying for work or leisure purposes; the business transaction here is between you and your guest or guests.
- 8.13. However, having a friend over to stay with you would not normally be an arrangement in the course of business.
- 8.14. This agreement is included in the activity requiring a licence, as well as having the guests reside in the property. That is to say, you do not need a licence to advertise a property for short-term lets but you will, in due course, need a licence to accept bookings (making the agreement).

### ***Is it the guests' only or principal home?***

- 8.15. If you are letting out property to your guests as their only or principal home, then it is not a short-term let. For example, if you are letting out your property as a private residential tenancy then that is not a short-term let. It does not later become a short-term let, even if it is no longer their only or principal home. For example, where a tenant moves to a different place but retains the tenancy. The accommodation would no longer be the tenant's only or principal home but the tenancy can persist.
- 8.16. There are other tenancies, such as agricultural, crofting and social housing which are also likely to be the tenants' only or principal home and therefore excluded<sup>42</sup>.
- 8.17. Providing accommodation to a lodger (including refugees) in your own home (where it is the lodger's only or principal home) is also excluded.

### ***How long are your guests staying?***

- 8.18. This is not a relevant consideration in assessing whether or not you are providing short-term lets. A short-term let can be for one night or for several months. Remember that it is not a short term let where it is the guest's only or principal home.

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<sup>42</sup> See paragraph 2 of schedule 1 of the Licensing Order.

### ***Are you charging your guests?***

8.19. If you are providing your property for free, then you are not providing short-term lets. However, the following arrangements would not count as free use of the property and could potentially be a short-term let:

- where the guests do work for you or provide a service in lieu of payment and the work or service was not the principal reason for their stay (e.g. offering to mow the lawn in lieu of payment);
- where the guests provide you with goods of value in lieu of payment;
- where you suggest a donation as part of the agreement; and
- where they reciprocate (e.g. house swap).

8.20. However, a “thank you” gift provided at the initiative and discretion of the guests (as often happens when a friend comes to stay) does not count as a charge.

### ***Are your guests related to you?***

8.21. If you are letting property to immediate family<sup>43</sup>, then this is not a short-term let. Immediate family is specifically defined in the Licensing Order. It is not a short-term let if one of the guests in the let:

- a) is your partner;
- b) is your or your partner’s: parent or grandparent; child or grandchild; or brother or sister; or
- c) is the partner of one of your: parents or grandparents; children or grandchildren; or brothers or sisters.

8.22. In this definition:

- partner means spouse, civil partner or someone you live with as if you were married to them;
- children with one parent in common are to be regarded as siblings; and
- stepchildren are to be regarded as children.

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<sup>43</sup> Article 2(4) and 2(5) of the Licensing Order.

### ***Are your guests staying to work for you?***

- 8.23. There are some exclusions if your guests are staying principally to provide services to you or work for you or members of your household.
- 8.24. It is not a short-term let where your guests live with you for the principal purpose of providing work or services to you. For example, if you have somebody to live with you to provide you with health or personal care, this would not be a short-term let. However, this does not extend to any guests doing any work. If your guests mow the lawn to help out whilst staying, this is not the principal purpose of their stay and does not preclude it being a short-term let.
- 8.25. The same applies in respect of guests living in other premises. For example, if you provide a cottage for the use of a seasonal agricultural worker (e.g. night labourer) for the purpose of doing work for you, then this would not be a short-term let. However, this exclusion does not apply if you are providing accommodation for the guests to work for someone else.

### ***Are your guests staying for educational reasons?***

- 8.26. There are some exclusions if your guests are staying principally to advance their education.
- 8.27. It is not a short-term let where your guests live with you for the principal purpose of advancing their education **and** the arrangement has been made or approved by a school, college, further or higher educational institution (such as a university). This excludes students living with a family for the express purpose of improving their English, for example. The reason for excluding these arrangements is that the student is more like a family member than a guest.

### ***What kind of property are you offering?***

- 8.28. Broadly speaking, if you are letting property that is part or all of a home or something more unusual, it is likely to be a short-term let. However, if you are offering institutional accommodation or are otherwise regulated then it is probably not. It does not really matter what you call your property, as terms such as bed-and-breakfast and hotel are not well-defined. This guidance cannot cover every permutation – if your circumstances are unusual, you may wish to contact your licensing authority or consider getting your own legal advice.

## Annex B

### Application checklist

This list helps you check you have the relevant information to submit an application for a licence. Getting your application right first time will help you to get a decision more quickly.

Your licensing authority will set out the detail and format of any documentation that must accompany your application.

Preliminary	
I am providing or intend to provide short-term lets – see definition of short-term lets in Annex A.	
I know the date by which I need to apply for a licence – see paragraph 1.29.	
I know whether I can continue operating whilst my application is processed – see paragraph 1.29.	
I know which type of licence I want to apply for – see paragraph 8.10 <ul style="list-style-type: none"><li>• home letting</li><li>• home sharing</li><li>• home sharing and home letting; or</li><li>• secondary letting.</li></ul>	
I have identified my licensing authority based on the address of my premises. You can find out which local authority your property is located in by entering the postcode at the following webpage: <a href="http://www.gov.uk">Find your local council - GOV.UK (www.gov.uk)</a>	
I have checked whether my licensing authority considers applications for temporary exemptions and, if so, whether I should apply for one – see details on temporary exemptions from paragraph 1.17.	
I have checked whether my licensing authority considers applications for temporary licences and, if so, whether I should apply for one – see details on temporary licences from paragraph 1.24.	

<b>Applicants (see chapter 2)</b>	
I have identified the owners and those involved with the day-to-day management of my premises.	
I have the permission of the owners of the premises (or their representative) in writing to use it for this purpose.	
To the best of my knowledge, I and the other people I will name on my application are fit and proper persons.	
I have contact details for the people and organisations I will name on my application form.	

<b>Mandatory conditions (see chapter 2)</b>	
<b>Responsibility for the property</b>	<b>Agents</b> – I have identified those involved with the day-to-day management of my premises and know that I cannot change them without the licensing authority’s approval.
<b>General safety and standards</b>	<b>General safety</b> – I have taken all reasonable steps to ensure the property is safe for residential use.
	<b>Occupancy</b> - I know how many guests I want to accommodate and I consider that I can do this safely. I have checked what the licensing authority will need to see regarding floor plans.
	<b>Repairing standard</b> – I have worked out whether my premises is a dwellinghouse and whether the repairing standard applies to me. <i>[If relevant]</i> My premises meets the repairing standard.
	<i>[If relevant]</i> <b>EPC</b> – my premises has a valid EPC certificate issued within the last 10 years.
<b>Fire safety</b>	<b>Fire safety: premises</b> – I have installed satisfactory equipment to detect and warn against fire or suspected fire, and carbon monoxide.
	<b>Fire safety: furniture and furnishings</b> - my furniture and furnishings / furniture and furnishing guests have access to comply with fire safety regulations and I have records that demonstrate compliance.
<b>Gas safety</b>	<b>Gas safety</b> – I have an up to date Gas Safety Certificate (dated within the last 12 months).

<b>Mandatory conditions (continued)</b>		
<b>Electrical safety</b>	<b>Electrical safety</b> – I have made sure my electrical fittings and items are in good working order;	
	arranged for an <b>electrical safety inspection</b> to be carried out by a competent person;	
	obtained an <b>Electrical Installation Condition Report</b> on any fixed installations; and	
	obtained a <b>Portable Appliance Testing Report</b> on moveable appliances to which my guests have access and labelled inspected items.	
<b>Water safety</b>	<b>Water supply</b> – I have established that my premises are supplied with water by Scottish Water <b>or</b> I have established that my premises has a private water supply and I comply with the relevant regulations.	
	I have completed a <b>legionella risk assessment</b> .	
<b>Other</b>	<b>Information for guests</b> – I have prepared information for guests and know where I will put it for them on the premises.	
	<b>Planning permission</b> – I have established whether I need to submit evidence that I have planning permission (or a certificate of lawful use of development) or have made an application.	
	<b>Listings: licence number</b> – I have made plans to display my licence number on adverts and listings.	
	<i>[If relevant]</i> <b>Listings: EPC rating</b> – I have made plans to display my EPC rating on adverts and listings.	
	<b>Buildings insurance</b> – I have checked that there is valid buildings insurance in place for the premises.	
	<b>Public liability insurance</b> - I have checked that there is valid public liability insurance in place whilst my premises is let as a short-term let.	

<b>Additional conditions</b>	
I have checked whether my licensing authority has any <b>additional licence conditions</b> and I can comply with the ones that are likely to apply to me – see paragraph 2.56.	
<b>Other matters to consider</b>	
<b>Food safety</b> - I understand the food hygiene and safety rules that apply to me.	
I comply with legal requirements that relate to <b>fire safety</b> set out in the Fire (Scotland) Act 2005 – see from paragraphs 2.18.	
I have checked the <b>title deeds</b> of my premises.	
I will declare my income from my short-term let activity for <b>tax</b> purposes.	
I have checked with my <b>lender</b> that I am allowed to use my premises for this purpose.	
I am complying with <b>other legal requirements</b> that affect me, my business or my premises.	
I have considered <b>engaging with my neighbours</b>	
<b>Fees</b>	
I know the <b>fee</b> that I will be charged and I am ready to pay it with my application- see paragraph 3.24.	

## Annex C

### PUBLIC NOTICE OF APPLICATION FOR SHORT-TERM LETS LICENCE

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

New application

Renewal

Applicant name			
Applicant's address			Postcode

Has applied to ***[insert licensing authority name]*** for a Short-term lets licence.

Short-term let premises address <i>(if different from applicant's address)</i>	
Type of licence applied for	Home sharing / home letting / home sharing & home letting / secondary letting <b><i>[DELETE as appropriate]</i></b>
Day-to-day manager / agent details <i>(if different from applicant)</i>	Name:  Address:

### **Representations**

Representations about the application may be made by any member of the public.

Representations **must**:

- be in writing;
- specify the grounds of the objection or, as the case may be, the nature of the representation;
- set out the name and address of the person making it;
- must be signed by the person, or on their behalf; and
- be made within 28 days of public notice of the application being given.

Copies of any representations will be given to the applicant. If a representation is made to the Licencing Authority after this date but before a final decision is taken on the application, then the Licensing Authority may consider the late representation if it is satisfied that it was reasonable for the representation to have been made after the deadline.

Representations should be sent to: ***[Insert licensing authority contact details]***

Date application lodged / public notice given	/	/
Last date for representations	/	/

- This notice must be displayed on or near the short-term let property in a position where it can be easily read by the public.
- This notice must be displayed for a period of 21 days from the date the application was lodged with the Licensing Authority.
- After the notice has been displayed for 21 days, a certificate of compliance must be completed and the whole notice returned to the Licensing Authority at the address above, Alternatively confirmation of display can be submitted in writing and signed, together with full applicant and property details.

## CERTIFICATE OF COMPLIANCE

### SHORT-TERM LETS LICENCE – CONFIRMATION OF DISPLAY OF PUBLIC NOTICE

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

#### CONFIRMATION OF DISPLAY OF NOTICE

**This section must be completed by the applicant and the whole notice returned to the Licensing Authority at the above address at the end of the 21-day display period. Alternatively please provide confirmation of display in writing with signature, along with full applicant and property details.**

I (Full name of applicant)			
Certify that the notice of application has been displayed as prescribed above for a period of not less than 21 days from _____ ending on _____			
Applicant's signature		Date	



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