Short-Term Let Regulations in Scotland
Frequently Asked Questions

Background

The Scottish Government has introduced a licensing regime for short-term lets in Scotland. Anyone looking to operate a short-term let for the first time from 1 October 2022 will need a licence before they do so. Those who are already operating short-term lets before 1 October 2022 must apply for a licence by 1 October 2023 if they wish to continue doing so. It will be a criminal offence punishable by a fine of up to £2,500 to operate a short-term let without a licence. This is enforced by Police Scotland.

Existing short-term letting operators should consider the potential planning requirements as well as checking whether their property meets the required licensing standards. For those considering entering the short-term letting market, the additional cost of a licence and potentially planning permission should be taken into account. If buying a property, they should consider what information or evidence the seller might provide to allow short-term letting to continue, or indeed begin.

Legislation pertaining to Short-Term Lets:

- The Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022
- The Town and Country Planning (Short-Term Let Control Areas) (Scotland) Amendment Regulations 2022

The Scottish Government has provided guidance (updated June 2023):

- Short term lets - licensing scheme part 1: guidance for hosts and operators
- Short term lets - licensing scheme part 2: supplementary guidance for licensing authorities, letting agencies and platforms

Q What is a Short-Term Let?

A The providing of residential accommodation by a host to a guest in the course of business and for commercial consideration will be a short-term let for the purposes of the legislation where:

- the guest does not occupy the property as their main home and they are not an immediate family member of the host; and
- the guest is not occupying the accommodation principally to facilitate work or services by the guest to the host, or sharing accommodation with the host as part of an educational arrangement.

Three basic types of short-term letting will need a licence:

1. home sharing - where the host is sharing their home;
2. home letting - where the host is letting their own home but is absent during the let; and

3. secondary letting – where the host is letting premises which are not their own home.

A licence for a mixture of home sharing and home letting is also possible. Certain premises are excluded and will not need a licence including purpose-built or converted student accommodation, hotels, licensed premises that provide accommodation and certain aparthotels with at least 5 serviced apartments in one building. The need for a licence will not apply to these premises and will also not apply when certain tenancies are granted including private residential and social housing tenancies.

What premises are included or excluded?

Type of Premises	**Included**	**Excluded**
Self-Catering Unit	x	
B&B	x	
B&B with Licensing (Scotland) Act 2005 Licence		x
Guest House without Licensing (Scotland) Act 2005 Licence	x	
Guest House with Licensing (Scotland) Act 2005 Licence		x
Self-Catering accommodation within the grounds of a premises or Hotel, which is mentioned as part of the Licensing (Scotland) Act 2005 Licence Operating Plan		x
Time Share Self-Catering Unit	x	
Bothy: a building of no more than 2 storeys with no mains electricity, piped fuel supply or piped mains water supply which is at least 100 metres from the nearest public road and from the nearest habitable building		x
Aparthotel: a minimum of 5 serviced apartments managed and operated as a single business where the while building is owned by the same entity with a shared entrance for the serviced apartments which is not shared with any other unit in the building.		x
Serviced Apartment – on its own, or up to 4 in a building	x	
Serviced Apartment – where 5 or more in an aparthotel		x
Static Caravan which cannot be moved on an un-licenced site	x	
Caravan which is mobile		x
Caravan on a licenced site (as defined by The Caravan Sites and Control of Development Act 1960)		x
Glamping Pod / Shepherds Hut	x	
Yurt	x	

Short-Term Let Licences

Q What are the main things I need to know now about obtaining a Licence?

A Licence applications are to be made to the Licensing Authority (LA) in the Council area where the property is located. Each LA has developed their own policy, so you will need to refer to their short-term let policy web page to identify specific requirements.

Licences usually last for three years (but this can be less) and LAs will be able to renew a licence for a longer period after the initial grant. Each LA has the ability to set their own fees for licence applications.

The person applying for the licence must pass a fit and proper test and the property must comply with health and safety standards including fire safety requirements and up to date compliance with gas and electricity standards.

Q Who needs a licence and when?

A Anyone operating a short-term let without having applied for a licence after 1 October 2023 will be committing an offence, punishable by fine of up to £2,500. However, there are transitional rules for existing hosts to allow them to continue letting provided they have applied for a licence.

Existing hosts: Hosts who were providing short-term lets prior to 1 October 2022 will be able to continue doing so, without a licence, provided they applied for a licence before 1 October 2023. In most cases, the LA has 12 months to reach decisions on applications from existing hosts, though that period can be extended by operation of law and by application from the LA to the sheriff court.

New hosts: New hosts starting to short-term let on or after 1 October 2022, or applying for a licence after 1 October 2023 will need to actually obtain a licence before they can start operating. The LA must determine these types of licence applications within 9 months of being made, or by 1 January 2025, whichever is earlier. Again, an extension to these deadlines is possible should the LA apply to the sheriff court.

In both cases, failure to make a decision within the relevant timeframe results in a deemed grant of the application. The resulting licence is valid for one year and then would have to be renewed.

New hosts may consider applying for a temporary licence which involves a streamlined process and is likely (though not guaranteed) to be decided more quickly. Temporary licences last for only six weeks but if the operator has also made a full application for the same premises, the temporary licence will continue until the full licence application has been determined. Not all LAs offer Temporary Licences as an option.

Q Are guest houses excluded?

A The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (the "Licensing Order") does not exempt accommodation because it is in a particular use class (of the Town and Country Planning (Use Classes) (Scotland) Order 1997) for planning purposes.

Therefore some, but not all, accommodation listed in Use Class 7 is exempt from short-term let licensing. Schedule 1 of the Licensing Order lists this accommodation as:

- a hotel, which has planning permission granted for use as a hotel
- a hostel

In addition, the following exemption will also be relevant to some Use Class 7 premises (including hotels and guest houses):

- premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect and where the provision of accommodation is an activity listed in the operating plan as defined in section 20(4) of the 2005 Act

Guest houses were originally listed as excluded accommodation in a previous version of the Licensing Order laid in December 2020. However, in response to feedback to this draft Order the Scottish Government subsequently removed guest houses from the list of excluded accommodation and undertook further public consultation on this in June 2021. This reflected that, as they can be variants of home sharing, guest houses should not be automatically excluded. Further information is set out in the 2021 consultation paper (item 1 in table 2 at page 12): Short term lets - draft licensing order and business and regulatory impact assessment (BRIA): consultation - gov.scot (www.gov.scot).

Unless otherwise excluded by any of the criteria set out in Schedule 1 of the Licensing Order, use class 7 premises are therefore within scope of the definition of a short-term let in the Order laid in November 2021 and approved by the Scottish Parliament in January 2022.

Q What are the licence requirements?

A Applicants must be assessed as "fit and proper", and must comply with various mandatory conditions, largely relating to safety.

Electrical checks will be required at least every five years, gas checks annually. Properties must have sufficient fire and carbon monoxide detection equipment, and furnishings must be fire safe. Records must be kept and information displayed within the premises.

Licence holders must take "all reasonable steps to ensure the premises are safe for residential use". For accommodation within a building, the repairing standard applies and the licence holder must ensure the accommodation meets the standard.

Licensing Authorities can set their own further standard conditions, which could be used to address specific local concerns such as noise or rubbish, and/or impose specific conditions on individual licences e.g. requiring replacement of wooden flooring in a flat with carpet or vinyl flooring.

Each Licensing Authority has set the level of fee which will be payable by those applying for a licence.

Temporary Licences

Licensing authorities can issue temporary licences, 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 full licence. If you have applied for a licence, your temporary licence will last until your licence application is determined.

Policies on temporary licences are a matter for licensing authorities. Your licensing authority website will explain whether and how your licensing authority issues temporary licences, including how long it takes to issue them.

Where licensing authorities choose to make use of temporary licences, applications for a full licence made following the grant of a temporary licence may attract a fee, in addition to the temporary licence fee.

If you are an existing operator prior to 1st October 2022 and you then applied before 1st October 2023 for a full short-term let licence, you do not require a temporary licence to continue operating as you can continue to trade under the 'transitional provisions' whilst your full STL licence application is determined.

If you are a new operator, who was not operating prior to 1 October 2022 (or who did not apply for your licence prior to 1 October 2023) you may want to apply for a temporary licence and a full short-term let licence before you begin operating, taking deposits or welcoming guests. As long as the temporary licence is granted, you should then be able to operate and take bookings until the full short-term let licence is considered and a decision made on it.

Licensing authorities have a period of 12 months to determine applications from existing operators (made before 1 October 2023) and they can continue operating until their application has been determined. Applications for new licences are required to be determined within 9 months of application, or by 1 January 2025 (whichever is earlier).

See Annex 3.

Temporary Exemptions

The Council can issue temporary exemptions from the requirement to have a licence.

An exemption could be issued for a property for certain occasions where there is a large number of visitors to an area or city over a short period, e.g. to support sports championships or art festivals.

Up to three periods of exemption can be granted in a 12-month period, so long as the total period of temporary exemption does not exceed six weeks in any period of 12 months.

Duration and Transfer of Licences

Q How long do licences last for?

A For three years from the date a licence is granted, or a shorter period if the Licensing Authority decides not to grant for three years. For example, in Edinburgh, a secondary let licence will generally be granted for an initial 1 year period.

Once the first renewal has passed and been granted, the Licensing Authority may grant a renewal for a longer period of time. This means that licences need not last for three years, depending on LA policy.

Q Are licences transferable when you sell a property?

A The 2024 Licensing Order introduced a facility to transfer an existing short-term let licence via a "transfer application". These applications are determined in broadly the same manner as licence applications. The Chief Constable and other statutory consultees are informed, and an opportunity is given for them to object to the transfer should concerns exist about the transferee.

- Death of licence holder – if a licence holder dies, the licence is deemed to have been granted to their executor for a period of three months. The executor can extend this period but must remember to do so in good time.
- Joint licence holders – where, for whatever reason, one of the joint holders is no longer holding the licence (whether by death, incapacity or exiting the business), there is a six-week period for the remaining licence holder to apply for a new licence. If this is not done within the six-week period, the licence would fall.

Q Is it likely that a business purchased which has a current licence could be fast tracked with fit & proper person being an outstanding item?

A If the licence is held by a Limited Company or Partnership, the purchaser could seek to purchase the licensee itself, without the need for a transfer application. Failing this, a transfer application could be made. There should be no presumption that any purchaser's application for a transfer would be granted or granted timeously. The Chief Constable has the power to object to a transfer if there are concerns about the transferee.

If a purchase were to conclude prior to a licence being transferred and a licensing authority wanted to support a purchaser in continuing to provide short-term lets without significant delay, the licensing authority could grant the purchaser a temporary licence pending consideration of a full licence application. Both the temporary licence and any full licence application would be see the applicant subjected to fit and proper fitness tests prior to determination.

Q How many licences are required?

A Arguably, accommodation located within a single premises can be covered by a single licence, however, some LAs are not taking on board Scottish Government direction in this regard:

> **Designation of activity**
> *4.(1) The activity specified in paragraph (2) is designated as an activity for which a licence under Part 1 of the 1982 Act is required.*
> *(2) The activity referred to in paragraph (1) is a short-term let on or after 1 October 2022.*
> *(3) Accommodation that is on a single premises requires only one short-term let licence.*

The provision applies to accommodation with shared facilities (such as yurts) or standalone accommodation, such as park lodges, provided they are all on the same premises.

Further details on the provisions within the Licensing Order are included in the policy note para's 51 – 55, and guidance Pt.1 para 8.3:

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).

Where the premises (accommodation and land) are all contained on one site (the same postal address – to note this is different to the same postcode), then this would be considered a single premises requiring only 1 licence to cover all the accommodation units on the site.

Examples of where a single licence would be permissible:

	Example	**Comment**
1.	Five purpose built self-catering cottages located on a single site	All five accommodation units are on a single site, and therefore considered a single premises eligible to apply for a single licence.

2.	Two cottages within a farm	Provided the two cottages are all within the one site, then a single licence could be issued. If the two cottages have separate postal addresses, or are listed on Registers of Scotland as two separate sites then two individual licences will be required.
3.	Bed and breakfast / home share arrangement where 2 bedrooms are let in a primary residence	The 2 bedrooms are 2 separately lettable accommodation units within a single premises (one primary residence), therefore a single licence would be required.

Examples where a single licence would **not** be permissible:

	Example	**Comment**
1.	Tenement block with 6 flats, all flats owned by the same owner and all let out as secondary lets.	Each flat is a separate premises, as there are 6 accommodation units all on separate sites (all have their own postal address). Each flat requires a separate licence.
2.	Two neighbouring detached houses owned by the same owner and let out as secondary lets.	Each house is a separate premises, as they are located on separate sites with different postal addresses, therefore a licence would be required for each house.
3.	A field with 10 permanent lodges at one end of a village, and another field with 5 permanent lodges at the other end of the village	This arrangement constitutes two separate premises, as the lodges are located on two separate sites. A licence would be required for each premises.
4.	Guest house / B&B / home sharing type arrangement with a separately bookable annex (secondary let) within the same site.	Although located on a single site, the accommodation would require two different licence types (home sharing licence and secondary letting licence). Therefore two separate licences would be required: 1. Home sharing for the guest house / B&B / home share primary residence; 2. Secondary letting licence for the garden annex;

Mandatory Conditions

Fit and Proper Person

Q What does 'fit and proper' mean and how can I evidence it?

A LAs must refuse an application for a licence if not satisfied that the applicant is fit and proper.

Local authorities will take account of a number of different matters. These may be narrated in their licensing policy, however, the main aspect of this will be: relevant offences; noise or other issues; adverse reports from consultees including licensing standards officers or Police Scotland; and neighbour complaints or objections.

Fire Safety

In 2006, the Fire (Scotland) Act 2005 ('the 2005 Act') introduced changes to fire safety law in Scotland and repealed previous fire safety legislation. The Scottish Fire and Rescue Service (SFRS) is the enforcing authority.

Guidance has been produced to assist those who have responsibility under this Act for ensuring fire safety in premises with sleeping accommodation in Scotland. This includes all forms of short-term let.

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.

Tolerable Standard Guidance: Satisfactory Fire Detection and Satisfactory Carbon Monoxide Detection.

Annex 2 to this guide contains stand-alone simple guidance for well-managed small bed and breakfast and self-catering premises. Compared to other 'sleeping risk' premises, the risk from fire to persons in this type of property is likely to be relatively low. This applies where:

- premises are used for self-catering holidays if occupied by not more than 10 persons
- bed and breakfast premises in the home of a resident operator (for not more than 8 guests)

In either case, the accommodation must have a means of escape from bedrooms via a traditional 'hall' with at least one exit directly to the outside; do not have letting or guest accommodation below a ground floor or above a first floor; do not act as the principal residence for paying guests; and do not have any storey area over 200 m^2 internal floor space.

The legislation requires the provision of fire safety measures; this includes 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 the safety of persons from harm caused by fire.

Q Can I carry out my own Fire Risk Assessment and if so, is there a link for a template?

A Fire safety law requires any person (the duty holder) who has control of the premises to carry out an assessment to identify risks to the safety of persons in respect of harm caused by fire in the premises. It also requires them to take fire safety measures which are reasonable to ensure the safety of persons.

As the owner or operator you are likely to be the best person to know about the risks on your own premises and how they can be controlled. You should therefore be able to carry out the fire safety risk assessment yourself.

Whilst duty holders are usually best placed to know their premises, they will need to decide whether they, or their employees where applicable, have the capability to assess fire risk. If duty holders do not have sufficient resources, skills or experience to undertake a fire safety risk assessment themselves they can arrange for a suitably qualified person or company to carry out an assessment on their behalf.

The ASSC has provided a Fire Risk Assessment template.

Q Must all external doors have thumb turn locks?

A The provision of thumb turn locks in relevant premises is not new and relevant persons should be able to leave the premises in an emergency without the use of a key. This not only applies to final exit doors but also any other door on the escape route that may be provided with a locking device.

Q Will the Licencing Departments "adjudicate" the standard of the Fire Risk Assessment, when this falls to Fire Service Scotland's legal responsibility?

A No. The enforcement body is the SFRS and the LA will forward your fire risk assessment to SFRS for comment and they will report back on it where necessary.

Q Do I need a designated smoking area?

A Yes, unless the entire property, including the grounds is a designated non-smoking area.

Q Do I need a designated assembly area?

A Yes

Q Should I have a naked flame policy for (fires / candles)?

A Yes

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.

Q Do I need to keep fire safety labels on all the furniture?

A Most Soft furnishing, that meet fire resistance standards, will be provided with a suitable label indicating compliance. In instances where there is no label the manufacturer should be contacted to provide information on a product's fire resistance. Where this is not possible products are available which, when following the manufacturers instructions, will give a suitable level of fire resistance e.g. fire-retardant spray treatments.

Gas Safety

When you apply, you must be able to provide confirmation that a currently valid, annual gas safety check has been carried out on all gas appliances by a Gas Safe registered engineer.

Q Is there a standard Gas Safety Certificate that will be required to be uploaded?

A A gas safety certificate will contain the same compliance requirement and must be conducted by a registered Gas Safety Engineer.

Electrical Safety Checks / PAT

Licensed premises require mandatory five yearly electrical safety checks as well as portable appliance testing.

The electrical installation, including wiring, sockets and fittings within the property will need to be inspected and tested by a competent person at least every five years. On completion an **Electrical Installation Condition Report (or EICR)** must be provided to the owner.

Appliances that are accessible to guests will also be required to be inspected and tested which could include washing machines, tumble dryers and fridges. A report will be required to prove the safety of these appliances called a **Portable Appliance Testing (PAT) Report**. This needs to be undertaken every 5 years, depending on the equipment being tested as some items may require to be tested more frequently. Determining the frequency of inspection and testing is a matter of judgement by the dutyholder, and should be based on an assessment of risk. It is recommended that this is carried out as part of the general risk assessment[1]

Annex 2 sets out the suggested **initial frequency** for the various types of checks on portable electrical equipment. It gives suggested starting intervals when implementing a maintenance plan. Where one figure is given, this is a guide for anticipated average use conditions; more demanding conditions of use will require more frequent formal visual inspections, and/or combined inspections and tests.

Note that the suggested initial frequencies for inspection and testing given are not legal requirements. It is up to the dutyholder, with appropriate advice where necessary, to assess the conditions affecting equipment, which may lead to potential damage and/or deterioration. This information should determine the maintenance plan.

Scottish Government statutory guidance on electrical installations and appliances in private rented property[2] says:

An appliance that was purchased new less than one year before the date of the test does not require to be included in that PAT test. An untested new appliance does not alter (i.e. reduce) the required minimum inspection frequency outlined in paragraph 30 below. An appliance that was purchased second hand should be included in that PAT test. If there is any doubt about the condition or age of an appliance or the date of purchase it should be included in the test. If an appliance is new it should be included in the record of the PAT test record and the date that its first test is due clearly recorded.

Appliances include –

- Electrical white goods (such as refrigerators and washing machines),
- Electrical brown goods (such as televisions and DVD players),

[1] https://www.hse.gov.uk/pubns/priced/hsg107.pdf, page 16 and 17 table 1

[2] SG+STATUTORY+GUIDANCE+ON+ELECTRICAL+INSTALLATIONS+AND+APPLIANCES+IN+PRIVATE+RENTED+PROPERTY+(updated+15+Feb+2021).pdf (www.gov.scot)

- Electric fires that are not fixed in place,
- Kitchen appliances, such as toasters and kettles,
- Hand held electrical equipment, such as hairdryers, and
- Any other appliances provided by the landlord that are not permanently connected to the electrical installation.

Portable appliances generally have a cable and a plug. There is often uncertainty about whether certain items of equipment should fall within the remit of inspection and testing of the fixed wiring or that of the portable appliance testing. For the avoidance of doubt, all portable appliances and fixed equipment provided by the landlord should be inspected and, if required, tested. If any fixtures are not specifically included in the remit of the EICR they should be included in the PAT.

Any appliance which fails to pass a Portable Appliance Test must be replaced or repaired immediately to comply with the repairing standard.

The duty to carry out electrical safety inspections does not apply to appliances that belong to tenants, only to appliances provided by the landlord.

Frequency of Inspection

Landlords should ensure that electrical safety inspection are carried out –

- Before a tenancy starts, and
- During the tenancy, at intervals of no more than 5 years from the date of the previous inspection.

The minimum standard to comply with the legislation is that an inspection must be carried out at least every 5 years, but this does not preclude more frequent testing where appropriate.

Private Water Supplies

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.

Legionella

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

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.

The ASSC has provided a Legionella Risk Assessment template.

Q Do I need to keep a record of Legionella risk assessment?

A You must keep a record of what assessment you did. This should be updated every 2 years. Your licensing authority may provide a template legionella risk assessment form

which you can use to complete your assessment. The ASSC has developed a Legionella Risk Assessment template.

Energy Performance Certificate (EPC)

Not all short-term lets will require an EPC. See Annex A.

Individual holiday homes, in Scotland, which are rented out in their entirety as specific properties to groups of people do require an EPC, as part of The Energy Performance of Buildings (Scotland) Regulations 2008. Having an EPC will be one of the Mandatory Conditions of a Short-Term Let Licence for self-catering holiday lets.

- An EPC can only be carried out by an Energy Assessor, who is a member of an accredited protocol body.
- An EPC lasts for 10 years.
- There is no minimum standard that a property must achieve (at this stage).
- Does the property already have an EPC? Use the postcode of the property to search on the central register at: https://www.scottishepcregister.org.uk/CustomerFacingPortal/TermsAndConditions (note that EPCs prepared prior to 2013 will not appear on the register.
- Enforcement of EPCs in Scotland is undertaken by local authorities
- Domestic energy assessors cannot undertake non-domestic energy assessment unless qualified to do so, and vice versa.

The EPC rating must be contained within all advertisements in commercial media. Commercial media is described in legislation as any of the following:

a) an advertisement in a newspaper or a magazine;
b) an advertisement transmitted electronically, including by means of the internet; or
c) an advertisement by way of written particulars of a building or building unit (which includes any photographs of the property).

The legal responsibility for advertising the EPC rating lies with the business and should be included in all listings. This means adding it to the description on any listing site. Although online platforms should encourage and supply the opportunity to promote your EPC, they do not have an enforcement role, nor carry liability.

Additional Guidance on EPCs can be accessed here.

Repairing Standard

You must ensure that the premises meet the repairing standard.

A privately rented property must meet the repairing standard as follows:

- the property must be wind and watertight 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 the landlord provides under the tenancy must be in a reasonable state of repair and in proper working order.

- any furnishings that the landlord provides under the tenancy must be capable of being used safely for the purpose for which they are designed.
- the property must have a satisfactory way of detecting fires and for giving warning in the event of a fire or suspected fire.
- the property must have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
- the property must meet the statutory Tolerable Standard.

Q I thought that "tenancies of less than 31 days for the purpose of a holiday will not be subject to the repairing standard"?

A This exemption has been withdrawn as part of the Short-Term Let Licensing scheme.

Maximum Occupancy

You must ensure that the number of guests residing in the premises does not exceed the number specified in the licence. The licensing authority will 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.

Q Do I need to provide professionally produced floor layouts / plans? What are the specific requirements?

A Licensing authorities may ask applicants to submit (as part of their application) floor plan(s) for their premises indicating room sizes, fire escape routes and accommodation intended for guests with mobility impairment. Licensing authorities may also wish to ask for plans to show the location of any steps, stairs, elevators or lifts in the premises, as well as the extent and boundary of the building. Whether this is relevant or required is academic as some LAS are asking for this level of detail. Alternatively, or in addition to requesting floor plans, licensing authorities may wish to visit your property in order to assess and determine an appropriate maximum occupancy. Different LAs will have different policies in terms of what evidence they require.

Insurance for buildings and public liability

Valid buildings insurance, and valid public liability insurance for the duration of each short-term let agreement should be in place.

Q Do I need specialist insurance for Short-Term Lets?

A You must have adequate public liability cover, which extends to liability to paying guests as well as buildings insurance. Some LAs are seeking either £2m or £5m.

Q What insurance do I need if I operate from a tenement block / shared building?

A For apartments covered under a block policy, you should ensure that the insurer is aware that one or more of the properties is used as a Short-Term Let.

Q I have staff, what insurance do I require?

A Any business employing staff, ie cleaners, groundsman etc, must have Employers Liability (EL) cover.

Additional Conditions

Before you apply, check the relevant licensing authority's website to find out whether additional licence conditions may be applied to your licence.

Q What are local authorities' additional conditions?

A Each licensing authority may set additional conditions that are specific to their area.

Q What are local authorities' fees for STLs?

A Each licensing authority will set fees on a cost recovery basis.

Other Frequently Asked Questions

Q If your certification expires part way through your licence period, what should you do?

A Ensure that your new certification is in place before the previous ones expire. If there are gaps in the coverage of certification, you may have to explain why. Saying that you could not get contractors may not be deemed a reasonable excuse. If your certificates do not run concurrently you may have to appear at a committee and this may result in your licence being renewed for a shorter period.

Q Is there an appeals process?

A Yes. This varies depending on the decision that you are appealing. Appealing the refusal of an STL Licence application is via summary application to the Sheriff Court within 28 days of the refusal decision. Valid grounds for appeal are that the LA;

(a) erred in law;

(b) based their decision on any incorrect material fact;

(c) acted contrary to natural justice; or

(d) exercised their discretion in an unreasonable manner.

If an appeal is upheld then the sheriff may remit the case back to the authority with procedural direction, or overturn or modify the decision. If you are at the stage where you intend to lodge an appeal, you should take legal advice.

Q What constitutes a valid neighbour objection and how will Local Authorities differentiate between a legitimate complaint and a vexatious neighbour?

A If there is an objection received, it will be up to those processing the application to determine if it is relevant, for example if it relates to the property or area in question, or if it is too wide, such as commenting on an issue which effects the whole of Scotland. If the objection is accepted, the application is likely to be heard at a committee hearing and applicant and objector will have the opportunity to address the licensing committee. Any points of competency, evidence and information can be raised at this stage.

Q Will using and providing evidence from a noise monitoring device mitigate against noise complaint issues?

A Noise monitoring won't necessarily mitigate, but may prove helpful evidence to counter a noise objection. Applicants will also require to explain how the device works and how the evidence supports their position.

Q As an existing operator, can I take bookings from October 2024 – not knowing whether a licence will be granted?

A As long as you were operating before 1 October 2022, and lodged and paid for a valid application for a full Short-Term Let licence, before 1 October 2023, then you should be able to continue operating until your licence application is determined. This includes advertising, taking bookings, taking deposits and having guests to stay at your property in terms of those bookings. If there was an issue with your licence, you may have to return all or part of your deposits depending on what is in your terms and conditions.

Q As a new operator, can I take bookings from October 2022 – not knowing whether a licence will be granted?

A No. If you are a new operator, from 1 October 2022, you may advertise but not take bookings nor deposits.

Q If you take a booking but your licence is refused or revoked, how does the operator administer the booking?

A You may have to return all or part of your deposits depending on what is in your terms and conditions.

Q How can I cover this in my Terms and Conditions?

A Your terms and conditions should provide for situations arising where there is an issue with your licence, as well as dealing with all other aspects of your business. You may want address deposit refunds and administration fees in these terms and conditions.

Q What happens if I refuse to apply for a licence?

A If you require a Short-Term Let licence, and you fail to apply timeously but continue operating, you could be subject to fines, or worse. If you do not know whether you require a Short-Term Let licence, please seek advice.

Q If I have an House of Multiple Occupation (HMO) licence, do I need a Short-Term Let licence?

A If your property is let to three or more tenants from more than one household, some or all of the tenants share toilet, bathroom or kitchen facilities, then your property will be considered as an HMO and will need an HMO licence. If you also offer short-term lets in addition to this style of rental you will also require a Short-Term Let licence. If, however, you operate short-term letting for less than six weeks in a year, you may be able to apply for a temporary exemption if your licensing authority offers this.

Q Can I state a 'care of' address on the Licence notification sign?

A You can state a business address on the advertising notice, but some parts of the application require personal information and home addresses to be given of applicants, agents, directors of a Limited Company, Partnership, trustees of a trust, and similar.

Q If I live abroad, will it mean that I am not a "fit and proper person"?

A That should not have a bearing on a licence being granted, although Police Scotland may have difficulty reporting a background check so that application may take slightly longer to process.

Q For new business after Oct 1st 2022 – if they are a new build/conversion can they apply off plan to reduce the period between operational readiness to getting a licence before they can take bookings and receive visitors

A The 2024 Licensing Order has introduced mechanisms to allow potential future operators of certain new build properties intended for short-term lettings use to apply for a "provisional short-term let licence." This provisional licence must then be 'confirmed' upon completion of the premises, before accommodation can be provided. It is hoped that this new process will provide certainty for potential operators of new STL accommodation, and their financial backers. It does not apply to conversions and it is not clear how quickly "provisional" licences will be "confirmed."

Licensing And Planning Permission

Q Will I need to have Planning permission in order to obtain a Licence?

A It has always been possible for a LA to demand that planning permission was obtained for short-term letting, where that activity constituted a material change of use of the property. City of Edinburgh Council have been particularly active in terms of using enforcement powers to ensure that planning permission is obtained or short-term letting ended for some properties within their area. This general power to demand that a host obtains planning permission still exists and can apply to any short-term letting depending on the circumstances and the policies of the relevant local authority.

In addition, the new planning rules on short-term letting introduce a new power for local authorities to designate the whole or any part of their area as a Control Area. The effect of being in a Control Area is to make use for short-term letting of a whole dwelling house or whole self-contained flat, which is not the home of the host (a secondary letting), a material change of use as a matter of law. Such a secondary letting within a Control Area will always need planning permission as well as a licence.

During the transitional period, immediately after 1st October 2022 up to 30th September 2023, if a LA considers that planning permission is needed, on receiving a licence application it can suspend consideration of the application for three months pending the applicant dealing with planning aspects. From 1st October 2023, failure to have correct planning permission in place can result in an immediate preliminary refusal of the licence application.

You can apply for planning permission at eplanning.scot

Q What is a Short-Term Let Planning Control Area (PCA)?

A Planning authorities may seek consent from the Scottish Ministers to designate part or all of their area as a Short-Term Let Planning Control Area. In a Control Area, any NEW use of a property for short-term letting automatically requires planning permission. This fact has knock-on effects for any licensing application that might be made for any use.

Q If I get planning permission, can a licence then still be refused?

A Yes, if you are non-compliant or there are other reasons for your licence to be refused. Similarly, obtaining an STL licence will not necessarily protect a licensee from subsequent planning enforcement action if it is determined the use of their property is a material change of use not benefitting from planning permission.

Q What is a Planning Application?

A A Planning Application is an application to your LA seeking formal consent for the use of your property. This will be required if your property is within a Planning Control Area and may be required in other parts of Scotland. The Scottish Government has updated Planning Guidance for Short-Term Lets. Advice from a planning consultant may help in your understanding of this subject, which is complicated, as it relates to your particular circumstances.

Q What is a Certificate of Lawfulness?

A A Certificate of Lawfulness is a legal determination by a LA that the use of a building has persisted for 10 or more years, and so is now immune from planning enforcement action. The onus of proof lies with the applicant, and it is for the applicant to provide the evidence that, on the balance of probabilities, shows the use has persisted for the 10-year or more period. The balance of probability is a civil test, and basically requires that, on the evidence, the occurrence of the event is more likely than not. You should seek legal advice if you want further information on this issue. A planning consultant can provide advice on what evidence can include. The key to a successful Certificate of Lawfulness application is the evidence you have to show that the use has persisted for a period of 10 or more years. The evidence you provide needs to be clear and convincing and may include statements from people who can corroborate the use. These can be in the form of a letter, statement, or affidavit. Other evidence may include website information, diaries of lettings, accounts, photographs, invoices, and any other documents showing the length of time a use has taken place.

It is also possible to raise an application for a Certificate of Lawfulness that seeks to determine if a particular use of a property (whether existing or proposed) is lawful. If granted, the certificate would demonstrate that planning permission for that particular form or manner of short-term letting does not (or would not) require planning permission. These types of certificate of lawfulness applications do not require that a property has been in STL use for 10 years. This is a specialist area, and it is recommended that you take the advice of a planning consultant to determine if you might benefit from any such application.

Q What are the fees for a Planning Application or Certificate of Lawfulness?

A The Scottish Government has published fees for planning applications.

"The amount that would be payable in respect of an application for planning permission to institute the use or carry out the operations specified in the application (or an application to do both, as the case may be)." This means that whether you are applying for a CLUD or change of use, the fee is the same:

> "(a) Where the gross floor space does not exceed 100 square metres, £600,
> (b) Where the gross floor space exceeds 100 square metres, £600 plus £600 per 100 square metres up to 4,000 square metres,
> (c) Where the gross floor space exceeds 4,000 square metres, £24,000 plus £300 per 100 square metres in respect of any gross floor space exceeding 4,000 square metres, subject to a maximum of £150,000."

In addition, there will be an additional cost for getting plans and elevations drawn up by an architect, although there are some online alternatives. Planning permission applications for existing use (where STL operations have already started) are known as "retrospective" applications and are subject to a further 25% fee surcharge. Certificate of Lawfulness applications are not subject to any such surcharge.

Annex 1: Energy Performance Certificate Provision

The advice provided by Scottish Government below is for illustrative purposes only and should be read in conjunction with Guidance Leaflet EPC 01, 'An Introduction to Energy Performance Certificates'.

	Classification/ Designator	Type of Accommodation	Notes on EPC Provision
1.	Camping and Caravan Parks	Holiday parks; touring parks and camping parks.	No – only rental of a building requires an EPCs.
2.	Campus Accommodation	College and university accommodation offered during vacation time to individuals and groups either with meals or on a self-catering basis.	Probably not. If the rental is only for a bedroom with access to kitchen/bathroom an EPC is not required.
3.	Hostel	Hostel, backpackers, group accommodation, activity accommodation, camping barn, bod or bothy and bunkhouse accommodation.	Probably not – see 2 above.
4.	Hotel and Exclusive Use Venue	Hotel, country house hotel, small hotel, town house hotel and metro hotel and accommodation exclusively for one customer or party with a minimum let of one day.	Probably not – see 2 above.
5.	Individual Caravan Holiday Home	Individual caravan holiday homes for let on holiday parks, farms or other locations.	No. See 1 above.
6.	Self-Catering	A property such as a house, cottage, or apartment which is usually let on a weekly basis and requires no service elements during the time of the guest's stay.	Probably yes, as this will fall into the category of self-contained unit.
7.	Serviced Apartment	Usually apartments located within one building and in a city centre location. Equipped with a kitchen facility or offer a meal service. A cleaning service will be provided on 5 or 7 days per week.	Probably yes, see 6 above.
8.	Small Serviced Accommodation	Includes bed and breakfast, farmhouse, guest accommodation, guest house, inn and restaurant with rooms.	Probably not, see 2 above.

Annex 2: Portable Appliance Testing

The table below[3] sets out the suggested **initial frequency** for the various types of checks on portable electrical equipment. It gives suggested starting intervals when implementing a maintenance plan. Where one figure is given, this is a guide for anticipated average use conditions; more demanding conditions of use will require more frequent formal visual inspections, and/or combined inspections and tests.

Table 1 Suggested initial maintenance intervals

Type of business		User checks	Formal visual inspection	Combined inspection and test
Equipment hire		N/A	Before issue/after return	Before issue
Battery operated equipment (less than 40 V)		No	No	No
Extra low voltage (less than 50 V ac), telephone equipment, low-voltage desk lights		No	No	No
Construction	110V equipment	Yes, weekly	Yes, monthly	Yes, before first use on site then 3-monthly
	230V equipment	Yes, daily/every shift	Yes, weekly	Yes, before first use on site then monthly
	Fixed RCDs	Yes, daily/every shift	Yes, weekly	Yes, before first use on site, then 3-monthly (portable RCDs – monthly)
	Equipment site offices	Yes, monthly	Yes, 6-monthly	Yes, before first use on site then yearly
Heavy industrial/high risk of equipment damage (not construction)		Yes, daily	Yes, weekly	Yes, 6–12 months
Light industrial		Yes	Yes, before initial use then 6-monthly	Yes, 6–12 months
Office information technology rarely moved, eg desktop computers, photocopiers, fax machines		No	Yes, 2–4 years	No if double insulated, otherwise up to 5 years
Double insulated ⧈ (Class II) equipment moved occasionally (**not** hand-held), eg fans, table lamps		No	2–4 years	No
Hand-held, double insulated ⧈ (Class II) equipment, eg some floor cleaners, some kitchen equipment		Yes	Yes, 6 months – 1 year	No
Earthed (Class I) equipment, eg electric kettles, some floor cleaners		Yes	Yes, 6 months – 1 year	Yes, 1–2 years
Cables, leads and plugs connected to Class I equipment, extension leads and battery charging equipment		Yes	Yes, 6 months – 4 years depending on type of equipment it is connected to	Yes, 1–5 years depending on the equipment it is connected to

[3] https://www.hse.gov.uk/pubns/priced/hsg107.pdf, Page 16/17

Annex 3: Temporary Licences

The following Councils which allow temporary licences in Scotland for holiday lets – as at 15.8.23

Only don't allow for secondary letting - I.e. looks unlawful given the Edinburgh judgement (2)	**Yes (11)**	**No (11)**	**In exceptional circumstances for someone wishing to try short term letting for a short period**	**Not for new STLs but you can if you buy an existing STL get a temporary licence (3)**	**Not clear or they don't mention temporary licences (3)**
Renfrewshire (temp. licences for primary home letting but for secondary home letting only where the applicant has previously held a short-term let licence for secondary letting and has missed the deadline for renewing that licence) **Clackmannanshire**	**Highland** **Orkney** **Comhairle nan Eilean Siar** **Angus** **Fife** **Moray** **Shetland** **South Ayrshire** **South Lanarkshire** **Stirling** **West Lothian**	**East Ayrshire** **East Renfrewshire** **Glasgow** **Inverclyde** **Aberdeen City** **Dumfries and Galloway** **East Lothian** **Midlothian** **North Ayrshire** **Scottish Borders** **East Dunbartonshire**	**Perth & Kinross**	**Dundee** **Aberdeenshire** **Argyll and Bute**	**Falkirk** **North Lanarkshire** **West Dunbartonshire** (whose policy states "The Committee may agree not to accept any Temporary STL Licence applications and instead require a full STL Licence to be applied for"(

Annex 4: Local Authorities

Local Authority	Link to local authority website
Aberdeen City	Short Term Lets | Aberdeen City Council
Aberdeenshire	Short-term let licence - Aberdeenshire Council
Angus	Short-term lets | Angus Council
Argyll and Bute	Short term lets licence | Argyll and Bute Council (argyll-bute.gov.uk)
Clackmannanshire	Licence - Short Term Lets (clacks.gov.uk)
Dumfries & Galloway	Short term lets - Dumfries and Galloway Council (dumgal.gov.uk)
Dundee City	Dundee City Council's Short-Term Lets Licensing | Dundee City Council
East Ayrshire	Short-term lets licence · East Ayrshire Council (east-ayrshire.gov.uk)
East Dunbartonshire	Short Term Lets Policy | East Dunbartonshire Council
East Lothian	Short-term lets | Short-term Lets licensing | East Lothian Council
East Renfrewshire	Short Term Lets - East Renfrewshire Council
Edinburgh City	Licences and permits applications – The City of Edinburgh Council
Eilean Siar	Short-Term Let Licensing (cne-siar.gov.uk)
Falkirk	Businesses, premises & venues - Short term lets | Falkirk Council
Fife	Short-term Lets Licence | Fife Council
Glasgow City	Short Term Let Licence - Glasgow City Council
Highland	Short term lets | The Highland Council
Inverclyde	Short Term Lets - Inverclyde Council
Midlothian	Short-term let licence | Midlothian Council
Moray	Short Term Lets Licence - Moray Council
North Ayrshire	Short-term let licence (north-ayrshire.gov.uk)
North Lanarkshire	Short-term lets 2022 | North Lanarkshire Council
Orkney	Short Term Lets (orkney.gov.uk)
Perth & Kinross	Short Term Lets - Perth & Kinross Council (pkc.gov.uk)
Renfrewshire	Short-term let licence for residential accommodation - Renfrewshire Website
Scottish Borders	Licensing information and application forms - Short Term lets | Scottish Borders Council (scotborders.gov.uk)
Shetland	Short Term Let Licensing – Shetland Islands Council
South Ayrshire	Short Term Let Licensing Scheme South Ayrshire - South Ayrshire Council (south-ayrshire.gov.uk)
South Lanarkshire	Short-term lets in Scotland – Licensing Scheme - South Lanarkshire Council
Stirling	Short-term let licensing | Stirling Council
West Dunbartonshire	Short-term let licences | West Dunbartonshire Council (west-dunbarton.gov.uk)
West Lothian	Short-term Lets - West Lothian Council