



Licensing Committee

Wednesday, 21 September 2022

NOTICE IS HEREBY GIVEN that a Special Meeting of the **Licensing Committee** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Wednesday, 21 September 2022** at **09:30**.

BUSINESS

Sederunt

Declaration of Group Decisions and Members Interests *

Short Term Lets

5 - 120

Report by the Depute Chief Executive (Education, Communities and Organisational Development)

Any person wishing to attend the meeting should contact customer services on 01343 563217 prior to the meeting as the number of attendees is restricted due to the recent Covid pandemic

You can however watch the webcast of the meeting by going to :
http://www.moray.gov.uk/moray_standard/page_43661.html

- * **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

THE MORAY COUNCIL

Licensing Committee

SEDERUNT

Councillor Paul McBain (Chair)
Councillor Peter Bloomfield (Depute Chair)

Councillor James Allan (Member)
Councillor Neil Cameron (Member)
Councillor Tracy Colyer (Member)
Councillor Theresa Coull (Member)
Councillor John Divers (Member)
Councillor Jérémie Fernandes (Member)
Councillor Donald Gatt (Member)
Councillor Juli Harris (Member)
Councillor Kathleen Robertson (Member)
Councillor Ben Williams (Member)

Clerk Name:	Lindsey Robinson
Clerk Telephone:	07966 120593
Clerk Email:	committee.services@moray.gov.uk



REPORT TO: SPECIAL LICENSING COMMITTEE ON 21 SEPTMEBER 2022

**SUBJECT: CIVIC GOVERNMENT (SCOTLAND) ACT 1982 AS AMENDED BY
THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING
OF SHORT-TERM LETS) ORDER 2021 – SHORT TERM LETS**

**BY: DEPUTE CHIEF EXECUTIVE (EDUCATION, COMMUNITIES AND
ORGANISATIONAL DEVELOPMENT)**

1. REASON FOR REPORT

- 1.1 To present to the Committee the process including Policy Statement and supporting documents for the provision of a new licencing regime for Short-term Lets (STLs) in Moray.
- 1.2 This report is submitted to Committee in terms of Section III (H) (1) of the Council's Scheme of Administration relating to the exercise of the function of the Council as licensing authority for The Moray Council area.

2. RECOMMENDATION

2.1 It is recommended that the Committee:

- i. **Consider, amend as necessary, and approve the full licence package including application form, fees and supporting documents to licence STLs in Moray produced at Appendix 1.**
- ii. **Consider, amend as necessary, and approve the statement of licensing policy attached at Appendix 2 to this report.**
- iii. **Agree recommendations for changes to the scheme of delegation as per paragraph 3.14 below and at Appendix 2 and commend those to Moray Council for formal approval.**
- iv. **Agree a final date for the implementation of the complete licensing system for STLs as 1 October 2022.**

3. BACKGROUND

- 3.1 The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 introduced new provisions within the Civic Government (Scotland) Act 1982 to require local authorities to introduce a scheme to license persons

who offer premises on short-term lets. This is a requirement and not an optional licence scheme.

- 3.2 Short-term lets is defined as “the use of residential accommodation provided by a host in the course of business to a guest, provided:
- the guest does not use the accommodation as their only or principal home, AND
 - the short-term let is entered into for commercial consideration, AND
 - the guest is not an immediate family member or sharing with the host for education purposes AND
 - the guest is not an owner or part-owner of the accommodation, AND
 - the accommodation is not for workers providing services to the host, AND
 - the accommodation is not excluded accommodation (excluded are things like hotels, hostels, residential care homes, school or student residential accommodation, secure accommodation like prisons and mobile accommodation), AND
 - the short-term let does not constitute an excluded tenancy (excluded are a long list of statutory tenancy types) .
- 3.3 This new licensing regime also provides local authorities with consequent powers to determine certain issues such as fees, policies, whether to introduce further controls and to determine individual licence applications.
- 3.4 At the meeting of this Committee on the 22 June 2022 officers explained the implications of the scheme. At that time the Committee agreed to adopt a light touch approach to the proposed licence scheme (paragraph 6 of the Minute refers). This meant use of self-certification for licence applicants where appropriate as well as the decision only to inspect a premises where it is considered necessary to do so.
- 3.5 Now, after extensive research and development, attached at **Appendix 1** is the final draft Moray Council STL application package for approval. The package includes application form, guidance, fee proposals, procedure and templates. . This application package is to be placed on the licensing pages of the council’s website in time to take effect on the agreed date of the 1 October 2022.
- 3.6 As stated, part of the package included at **Appendix 1** are proposals for fees. The amount of the fee has been the most frequently asked question in the run up to the implementation of the scheme. The Scottish Government asked Councils as licensing authorities to keep fees to a manageable level for businesses. Nevertheless the legal requirement is for licensing to be self-funding and for licensing authorities to recover from fees, as far as possible, the cost to the authority of providing the licensing function. Therefore there is little room for manoeuvre when it comes to fees. Officers from licensing and accountancy services have together undertaken a difficult cost gathering and calculating exercise. If licensing is to be self-funding then the fee must equate to the cost of processing. As processing is very similar for all applications it has not proved possible to justify a sliding scale of fees based on occupancy. It should be noted, however, that larger premises are more likely to require an inspection and so may incur an additional inspection fee. It should also be noted that the proposed fee scale has been based on estimates of expected application numbers of approximately 600. If application numbers fall below this then there is a risk that fee income will not cover expenditure.

Unfortunately there are no better estimates available. Fees will therefore need to be kept under review, as with all licence fees but it seems likely the first opportunity to affect overall fee income will be in 3 years' time.

- 3.7 The Scottish Government guidance included the possibility of introducing an annual fee. However there are no other civic government licence types with an annual fee. This is because there is minimal need for ongoing administration of licences after they have been granted. In relation to STL licensing it is impossible to assess the ongoing need for administering licences so it is difficult to justify an annual fee. Instead the fee proposals provide for an inspection fee and associated administration costs. A certain but limited amount of inspection has been built into the processing of licences. If a premises proves to be a source of complaints after granting of the licence then it may be necessary to arrange an inspection. At this point a further inspection fee will be charged to the licence holder in accordance with the general licensing principle of the polluter pays. There are already separate fees for matters such as a variation of a licence or provision of a duplicate licence in the event of its loss. It is proposed those fees will also apply to STLs as a civic licence type.
- 3.8 It should be noted that the fee proposed is the same for temporary licences as it is for permanent (3 year) licences. The conditions and regulation will also be the same. So whilst the council as licensing authority has the power to grant temporary licences it is anticipated there will little value or interest in them. The licence fee represents the cost of processing and there is little difference in processing between temporary licences and 3 year licences, making the former uneconomic. This is the same for other civic licence types.
- 3.9 As previously explained, existing operators have from the 1 October 2022 to 1 April 2023 to apply for any necessary STL licences. There is then a long stop date of the 30/4/2024 for the council to issue those licences and for all necessary persons to be licensed. After that time it will be a criminal offence for persons to undertake the licensable activity without the appropriate licence in place. Any new operators or existing operators who wish to let out new property will have to apply for a licence after the 1 October 2022 but must obtain the licence before they can start to take bookings.
- 3.10 The timescales detailed in paragraph 3.9 above are beyond the council's control. Officers have been working tirelessly on developing a full licence type for what may instantly become the licensing authority's largest licence group. The ultimate goal is to develop a fully online licence process that will be automated as far as possible. The technology is taking longer to develop than the time available largely because of delays in the Scottish Government producing a statistical specification. This specification has only been made available at the time of writing this report on 9 September. The system provider could not develop the relevant screens for the licence type without knowing what data would be required. So that has delayed the licence system progress. The Scottish Government has not provided a national system as is in place for planning. Therefore councils have been left to develop their own systems and Moray Council's ICT service is assisting licensing in developing an online form. The intention is then to purchase software that will facilitate direct population of the licensing database from the online form. This will not be available in line with the 1 October deadline. It will be done as soon as

possible but the exact timescale is not known. Therefore it is the intention of officers to try and encourage applicants to wait for the online system rather than submitting large amounts of paperwork that have the potential to overload administrative resources.

- 3.11 In addition to the licence package and also attached at **Appendix 2** is the proposed Statement of Licensing Policy for approval. The policy has not specifically been consulted upon with the public. This was because there is very little that is actual local policy as opposed to what could be termed general guidance, particularly national guidance from the Scottish Government. The policy can be kept under review and should matters arise that require the Committee's attention then officers will report to Committee.

- 3.12 The significant matters to refer to in terms of the draft policy are:

3.12.1 There are no proposed additional "local" conditions for either full or temporary licences as part of the light touch approach. This is another reason for the lack of formal consultation on the policy as policy impact is limited. It is felt that the raft of statutory mandatory conditions is sufficient to ensure the safe running of premises. In addition market pressures and the competition for customers should ensure that premises offered for STLs should be as good as they can be.

3.12.2 The scheme of delegation provides that officers can apply additional low level conditions to a licence application especially where recommended by a consultee. The policy at paragraph 10 describes the process for additional conditions. Where it becomes a major issue then the licence may be subject to a review before the committee.

3.12.3 The suggested policy confirms that temporary exemptions will not be granted. A temporary exemption is the power for the licensing authority to grant requests for temporary exemption to the licence requirements. Most likely such requests would be triggered by specific events and the likely types of events cannot be anticipated. In addition there is technically no de minimis for STLs in terms of the number of days a premises is let and temporary exemptions would be unregulated. In the scenario of a major local event triggering requests officers would report to Committee as necessary for a specific view on possible temporary exemptions.

3.12.4 The policy confirms that temporary licences, as an optional licence type, may be granted but, for reasons stated in relation to fees above, will not be attractive. A temporary licence can last for up to 6 weeks but there is no requirement for a public display notice. If an application is made (with further payment) for a full licence during the currency of a temporary licence then the temporary licence will continue unless and until the full licence application is determined. Mandatory conditions will apply to temporary licences.

3.12.5 The licence will determine the maximum occupancy for the STL premises and that will be set by reference to factors set out in the policy. Maximum numbers sought will be set out in the application form by applicants including numbers of people by reference to rooms. The

policy confirms that only children aged 10 or above will count towards occupancy figures and this is based on the context of housing legislation in particular the Housing (Scotland) Act 1987. Children under 10 years won't count towards maximum occupancy as they are deemed able to share with parents.

- 3.13 Public liability insurance is a requirement of legislation but does not specify a minimum sum insured. Insurance is as much for the protection of the operator as it is for customers. Within the proposed system the minimum public liability insurance level has been set at £5Million. This is in line with other existing licence types and anecdotal evidence from other licensing authorities.
- 3.14 In order for the licence system to run smoothly it is necessary to implement a system of delegated powers. The Scheme of Delegation is determined by the full Council. Therefore it is proposed that the Licensing Committee endorse the proposals for amendments to the Scheme of Delegation that will need to be placed before the full Council. The existing scheme is available at: <http://www.moray.gov.uk/downloads/file118705.pdf>
A document detailing the Scheme of Delegation with proposed changes detailed (that include some minor changes to tidy up existing anomalies) is attached as part of **Appendix 2**. It is proposed that this scheme be amended to include STLs as a licence type and make provision for matters specific to STLs in addition to the existing general powers for all licence types.

4 SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The provisions of licensing directly relate to the priorities within the 10 Year Plan in relation to healthier citizens, a growing and diverse economy and safer communities. Licensing exists to promote public safety, in this context for both staff and customers. Industries that undertake licensable activities can have positive effects on tourism and aid a growing economy.

(b) Policy and Legal

The Civic Government (Scotland) Act 1982 (Licensing Of Short-Term Lets) Order 2022 provides for a new licensing regime for STLs by amending The Civic Government (S) Act 1982. The Council as licensing authority are now required to licence short term let premises.

Therefore licences of this sort will follow the well established process set out in Schedule 1 to the Civic Government (S) Act 1982.

(c) Financial implications

The costs associated with the implementation of a licence type and ongoing administration represents a large amount of staff time. The time and associated costs for development has been met from existing budgets as one off costs. The time for processing of applications going forward will require

additional resources and the cost of the same are expected to be met from licence fees.

(d) Risk Implications

Human rights and equalities implications are discussed separately.

Delays occasioned by matters beyond the licensing authority's control could have meant a failure to deliver a licence system in time for 1 October leaving operators in the difficult position of not being able to apply for a licence they will need. A paper based system will be in place but not the preferred online system. However the Scottish Government's long stop date of 1 April leaves several months for applicants who are considered to be existing operators to apply and so some room for manoeuvre.

(e) Staffing Implications

Currently staff time is being met from existing resources. Going forward may require an additional staff resource as set out in the last report to the Committee on 22 June 2022. This will be kept under review based on the number of applications received. The suggested application fee has built in some additional resources for both additional administration, regulation and consultation.

(f) Property

There are no property implications arising from this report.

(g) Equalities/Socio Economic Impact

The Scottish Government consultation of 2020 included an Equalities Impact Assessment (EIA). A copy of the EIA is available to view at: <https://www.gov.scot/publications/short-term-lets-licensing-scheme-planning-control-areas-consultation-analysis/pages/11/>. The EIA concluded that the introduction of an STL licensing scheme does not give rise to any equality issues. Therefore the conclusion is that Moray's STL scheme does not give rise to any equality issues.

Nevertheless licensing in general does have the potential to impact on equalities. The licensing authority should take cognisance of human rights issues and the rights potentially engaged. These rights include the right to a fair trial (in terms of the application process), the right to private life and the right to peaceful enjoyment of possessions. Possessions may include not only the physical property in which a business is conducted, but arguably also the goodwill of a business and all rights attached to it. Other relevant legislation such as the Provision of Services Regulation should also be considered. Regulation 24 provides that any refusals of licences under the act must not discriminate against the applicant on the basis of nationality, they must be justified on the basis of public policy, and health etc. and any refusal must be proportionate.

(h) Climate Change and Biodiversity Impacts

There are no climate change and biodiversity impacts arising from this report.

(i) Consultations

Full consultation is not required by the legislation. Nevertheless officers have engaged with the trade and the public where possible. No formal consultation has been carried out in relation to implementation of the scheme but licensing officers have been in regular communication with the Scottish Government, national officer groups, trade bodies, individuals, partners and internal consultees. Ideas, feedback and queries have all fed into the process. As stated proposals for the fee structure have been developed in concert with accountancy service and internal partners.

5. CONCLUSION

- 5.1 The Committee is invited to consider and approve for publication the new process, fees, and all documents created for the new licence type of STLs including the policy and supporting documents to be the Licensing regime to start on the 1 October 2022.**

Author of Report: Sean Hoath
Background Papers:
Ref:



**THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS)
ORDER 2022
APPLICATION FOR A SHORT-TERM LET LICENCE**

PLEASE READ GUIDANCE NOTES SUPPLIED BEFORE COMPLETING THE FORM

A. LICENCE DETAILS

Tick one box only:

Secondary Letting ☐

Home Letting ☐

Home Sharing ☐

Home Letting and Home Sharing ☐

Are you applying for a temporary licence?

YES / NO

B. APPLICANT DETAILS

Tick one box only: Individual ☐ Corporate Entity ☐

B.1 Individual Details:-

Full Name

Home Address

.....

.....

Post Code

Tel. No Mobile.....

If you have lived at this address for less than five years, you must provide previous addresses below to cover this period.

Previous Address 1
.....
.....

Post Code

Previous Address 2
.....
.....

Post Code

If you have further address details to add, include these in the additional information sheet attached to this application.

Email

Date of BirthAge.....

Place of Birth

Are you a Registered Landlord? YES / NO

If yes, please provide your landlord registration number

B.2 Corporate Entity

Full Name of Person completing application

Full Name of Corporate Entity

Address of Registered
or Principal Office
.....

Post Code

Tel. No

Email

Full details of all Directors, Partners or other persons responsible for management of the entity (continue on the additional information sheet if necessary)

Full Name

Home Address

.....

.....

Post Code

Tel. NoMobile.....

Email

Date of BirthAge.....

Place of Birth

Full Name

Home Address

.....

.....

Post Code

Tel. NoMobile.....

Email

Date of BirthAge.....

Place of Birth

Full Name

Home Address

.....

.....

Post Code
Tel. No Mobile.....
Email
Date of Birth Age.....
Place of Birth

C. DAY TO DAY MANAGEMENT OF THE PREMISES

Do you intend to carry out the day to day management of the premises? YES / NO

If no, provide the full details of the agent/day-to-day manager who will be responsible for management of the premises:

Full Name
Home Address
.....
.....
Post Code

If the agent/day to day manager has lived at this address for less than five years, provide previous addresses below to cover this period.

Previous Address 1
.....
.....
Post Code
Previous Address 2
.....
.....
Post Code

If you have further previous address details to add, include these in the additional information sheet attached to this application.

Tel. No Mobile.....

Email
Date of BirthAge.....
Place of Birth

D. PREVIOUS/OTHER SHORT-TERM LET LICENCE DETAILS

Have you or anyone else named on this application held a short-term let licence? YES / NO

If yes, please provide the licensee's full name, name of licensing authority who granted the licence and the type of short-term let licence held

.....
.....
.....

E. OWNERSHIP OF THE PREMISES

Do you own the premises/land on which the premises are located that you are seeking a licence for? YES / NO

If yes, do you share ownership? YES / NO

If you do not own, or are not the sole owner of the premises/land on which the premises are located, please provide the full name(s) and address(es) of each owner (continue on the additional information sheet if necessary):

Full Name

Home Address

.....
.....

Post Code

Full Name

Home Address

.....
.....

Post Code

If you do not own or are not the sole owner of the premises, do you have permission of the owner(s), each other owner(s) or, person authorised to act on behalf of the owner(s)?

YES / NO

Have you included a consent declaration from each owner(s)/each other owner(s) or, person authorised to act on behalf of the owner(s) with this application?

YES / NO

F. PREMISES

Full Address of Premises
(including County)

Post Code

Please confirm the Moray Council Ward where the premises are located by ticking the relevant box.

Ward 1 Speyside Glenlivet	<input type="checkbox"/>
Ward 2 Keith and Cullen	<input type="checkbox"/>
Ward 3 Buckie	<input type="checkbox"/>
Ward 4 Fochabers Lhanbryde	<input type="checkbox"/>
Ward 5 Heldon and Laich	<input type="checkbox"/>
Ward 6 Elgin City North	<input type="checkbox"/>
Ward 7 Elgin City South	<input type="checkbox"/>
Ward 8 Forbes	<input type="checkbox"/>

Is the premises located within a National Park?

YES / NO

If yes, please confirm the National Park where the premises are located by ticking the relevant box.

Cairngorms National Park	<input type="checkbox"/>
Loch Lomond and Trossachs National Park	<input type="checkbox"/>

Were the premises available for short-term let on or before 30 September 2022? YES / NO

F.1 Description of the Premises

Please give a general description of the type of the premises (e.g. bungalow, flat, unconventional dwelling, specify number of floors, etc) and enclose a detailed floor/layout plan. Your plan should indicate room sizes, fire escape routes, steps, stairs, elevators or lifts, accommodation intended for guests with mobility impairment as well as the extent and boundary of the building if relevant.

.....
.....

.....

.....

.....

Please provide details of any third party accreditation or certification awarded to the premises (e.g. Visit Scotland Quality Assurance, date of award and number of stars awarded).

.....

.....

.....

F.1.1 Rooms

Total number of habitable rooms (include kitchen)

Total number of letting bedrooms

Total number of beds available for use by the guests

Total number of public rooms available for use by the guests
i.e. lounge/dining room etc.

Total number of rooms used for owner/manager's private accommodation

F.1.2 Catering

Do you offer Self Catering accommodation? YES / NO

Do you offer Bed Only accommodation? YES / NO

Do you offer Bed & Breakfast/Full Board accommodation? YES / NO

F.2 General Safety and Standards

F.2.1 Fire Safety

Does the premises have satisfactory equipment installed for detecting and giving warning of fire or suspected fire, and the presence of carbon monoxide? YES / NO

Do all upholstered furniture and furnishings intended for guest use or to which guests are permitted to have access to comply with the Furniture and Furnishings (Fire Safety) Regulations 1988? YES / NO

If yes, do you have records to demonstrate compliance with the Furniture and Furnishings (Fire Safety) Regulations 1988? YES / NO

Have you completed Scottish Fire and Rescue Service's fire safety checklist? YES / NO

You must send a copy of the completed checklist to Moray Council with your licence application.

F.2.2 Gas Safety

Does the premises have a gas supply?

YES / NO

If yes, please provide a copy of the most recent Gas Safety Certificate for the premises with this application.

F.2.3 Electrical Safety

Do guests have access to electrical fittings within the premises?

YES / NO

If yes, please provide a copy of the most recent Electrical Installation Condition Report on fixed installations with this application.

Do guests have access to electrical moveable appliances within the premises? YES / NO

If yes, please provide a copy of the most recent Portable Appliance Testing Report on moveable appliances with this application,

F.2.4 Water Safety

Does the premises have a private water supply?

YES / NO

If yes, have you complied with the requirements set out in the Water Intended for Human Consumption (Private Supplies)(Scotland) Regulations 2017?

YES / NO

Have you completed a legionella risk assessment for the premises?

YES / NO

Please provide a copy of the risk assessment carried out with this application.

F.2.5 Safety & Repair Standards

Have you taken all reasonable steps to ensure the premises are safe for residential use?

YES / NO

Are the premises subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006?

YES / NO

If yes, do the premises meet the repairing standard?

YES / NO

F.2.6 Energy Performance Certificate

Does the premises have an Energy Performance Certificate issued within the last 10 years?

YES / NO

If yes, please enclose a copy of the Energy Performance Certificate with this application.

If yes, please tick the box which indicated the Energy Performance Certificate Rating for the premises.

A	<input type="checkbox"/>
B	<input type="checkbox"/>
C	<input type="checkbox"/>
D	<input type="checkbox"/>
E	<input type="checkbox"/>
F	<input type="checkbox"/>
G	<input type="checkbox"/>

F.2.7 Building Warrant

Are you aware of any building work that has been carried out on the premises in the last 10 years?

YES / NO

If yes, please specify

.....

.....

.....

Have you considered if a building warrant is required?

YES / NO

If yes, please give the reference and date granted

If no, please search "Do I need a building warrant?" at www.moray.gov.uk

F.2.8 Insurance

Specify the buildings insurance in force, including details of insurance company and amount of cover. **Enclose with the application a valid Insurance Certificate or other proof of insurance cover.**

.....

.....

Specify the public liability insurance in force, including details of insurance company and amount of cover. Please note valid public liability insurance for not less than £5 million should be in place for the duration of each short-term let. **Enclose with the application a valid Insurance Certificate or other proof of insurance cover.**

.....

.....

.....

F.3 Planning Permission

Have you considered if planning permission is required?

YES / NO

If yes, please give the reference and date granted

If no, please search "Do I need planning permission?" at www.moray.gov.uk

G. OCCUPANCY AND AVAILABILITY

Total number of guests you would like to accommodate at any one time in the premises

Total number of adult guests and total number of child (aged 10 and over) guests
you would like to accommodate at any one time in the premises.

Total number of owner(s) family or family of the person(s) managing the premises and
guests at one time.

Is the accommodation used by the owner(s) family or family of person(s) managing
the premises entirely separate from the other guests accommodation? YES / NO

How often do you intend to make the premises available to guests?
Please tick the box that applies.

Less than 3 months per year ☐
3 to 6 months per year ☐
6 to 9 months per year ☐
All year round ☐

Other please describe
.....

Do you hold a House in Multiple Occupation Licence in respect of the premises? YES / NO

H. CRIMINAL CONVICTIONS

Have you, or any other person named in this application, **ever** been convicted
of **any** crime or offence? YES / NO

If yes, please provide details
.....
.....

You must provide details above of all relevant convictions (including road traffic offences) recorded
against you or any other person named in this application.

I. RESIDENCE OUTSIDE THE UK

Since being born have you, or anyone named in this application, lived outside the
UK for a continuous period of 12 months or more? YES / NO

If you have answered YES please provide details of all the countries in which you, or anyone
named in this application, have lived. Please continue on a separate sheet if required.

Country of Residence.....FromTo.....

Country of Residence.....FromTo.....

Country of Residence.....FromTo.....

Country of Residence.....FromTo.....

For each country you, or anyone named in this application, have lived in the last 10 years you are required to provide a Criminal Record Check. Please refer to the Guidance Notes for further details of the documentation you are required to provide.

J. DECLARATION

I declare that I shall, for a period of 21 days, display at or near the premises mentioned in Section F so that it can be conveniently read by the public, a notice complying with the requirements of Paragraph 2(2) of the Civic Government (Scotland) Act 1982. *A form which may be used for this purpose is in appendix 1 and you must submit a Certificate of Compliance to the Council.*

Signature of applicantDate

or

Signature of Agent onDate
behalf of applicant

Agents Address

I declare that I have met the mandatory licence conditions set out in The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022

Signature of applicantDate

or

Signature of Agent onDate
behalf of applicant

Agents Address

I declare that the particulars given by me on this form are true and I hereby make application to Moray Council for the grant of the licence applied for.

Signature of applicantDate

or

Signature of Agent onDate

Agents Address
.....

NB. It is an offence for any person to make any statement which he knows to be false in this application or in connection with the making of this application

Data Protection - Moray Council is the data controller for this process. Information about you on this form will be used to process your licensing application. In processing your application, the information may be shared between Council departments, other local authorities, other agencies, the public and Scottish Government where necessary and/or in accordance with statute. The Council has a duty to process your information fairly. Information we hold must be accurate, up to date, is kept only for as long as is necessary and is otherwise shared only where we are legally obliged to do so. You have a legal right to obtain details of the information that we hold about you. For full terms please visit [Licensing Privacy Statement](#). For full Data Protection policy, information and rights please see www.moray.gov.uk/moray_standard/page_119859.html.



ADDITIONAL INFORMATION SHEET (1/2)

Section B.1 Individual Details

Section B.2 Corporate Entity

Section C. Day to Day Management of the Premises

Section E. Ownership of the Premises



ADDITIONAL INFORMATION SHEET (2/2)

Use the space below to provide any other information relevant to your application



***PUBLIC NOTICE OF APPLICATION FOR SHORT-TERM LETS LICENCE
THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-
TERM LETS) ORDER 2022***

New application

Applicant name:

Applicant's address:

Postcode:

Has applied to ***Moray Council (as Licensing Authority)*** for a Short-term lets licence.

Short-term let premises address *(if different from applicant's address)*

.....

Type of licence applied for:

(Tick only one option)

Secondary Letting ☐

Home Letting ☐

Home Sharing ☐

Home Letting and Home Sharing ☐

Date application lodged:

Day-to-day manager / agent details ***(if different from applicant)***

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 Moray Council after this date but before a final decision is taken on the application, then Moray Council 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: Moray Council, Council Offices, High Street, Elgin, IV30 1BX (where a copy of the application may be inspected) or emailed to Licensing@moray.gov.uk and require to be lodged by:

.....(Date)

- 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 Moray Council.**
- After the Notice has been displayed for 21 days, a Certificate of Compliance must be completed and the whole Notice returned to Moray Council at the address above. Alternatively, confirmation of display can be submitted in writing and signed, together with full applicant and property details.

Date.....

Signature of Applicant

Or

Signature of Agent on behalf of Applicant



**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**

This section must be completed by the applicant and the whole Notice returned to Moray Council 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

Date

Signature of Applicant

Or

Signature of Agent on behalf of Applicant



APPLICATION CHECKLIST

This list is intended to provide a helpful starting point for checking you have the relevant information required in order to submit an application for a short-term let licence. Getting your application right first time will make the process easier for you and will help you to get a decision more quickly.

Preliminary

I have read the guidance provided	Yes / No
I know the date by which I need to apply for a licence	Yes / No
I have identified the owners and those involved with the day-to-day management of the premises I am seeking a licence for	Yes / No
I have the permission of the owners of the premises to use it for this purpose	Yes / No
To the best of my knowledge, I and the other people named on my application are fit and proper persons	Yes / No

Responsibility for the property

Agents

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.	Yes / No
---	----------

General safety and standards

General safety

I have taken all reasonable steps to ensure the property is safe for residential use.	Yes / No
---	----------

Occupancy

I know how many guest I want to accommodate and I consider that I can do this safely.	Yes / No
---	----------

Repairing standard

I have worked out whether my premises is a dwellinghouse and whether	Yes / No
--	----------

the repairing standard applies to me.

[if relevant] – the premises meets the repairing standard. Yes / No

EPC

[if relevant] the premises has a valid EPC certificate issued within the last 10 years. Yes / No

Fire Safety

premises – I have installed satisfactory equipment to detect and warn against fire or suspected fire, and carbon monoxide. Yes / No

Furniture and furnishings – my furniture and furnishings comply with fire safety regulations and I have records that demonstrate compliance. Yes / No

I have completed Scottish Fire and Rescue's checklist for short-term lets and enclosed this with my application Yes / No

Gas Safety

[if relevant] I have an up to date Gas Safety Certificate (dated within the last 12 months). Yes / No

Electrical Safety

I have made sure my electrical fittings and items are in good working order; Yes / No

Arranged for an electrical safety inspection to be carried out by a competent person; Yes / No

Obtained an Electrical Installation Condition Report on any fixed installations and provided a copy of it. Yes / No

Obtained a Portable Appliance Testing Report on moveable appliances to which my guests have access and labelled inspected items. Yes / No

Water Safety

I have established that my premises are supplied with water by Scottish Water or, I have established that my premises has a private water supply and I comply with the relevant regulations Yes / No

Legionella

I have completed a legionella risk assessment Yes / No

Other

Information for guests

I have prepared information for guests and know where I will put it for them on the premises Yes / No

Planning Permission

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. Yes / No

Listings

Licence number – I have made plans to display my licence number on adverts and listings. Yes / No

[if relevant] I have made plans to display my EPC rating on adverts and listings. Yes / No

Insurance

Buildings insurance – I have checked that there is valid buildings insurance in place for the premises. Yes / No

Public liability insurance – I have checked that there is valid public liability insurance for not less than £5 million in place for the premises for the duration of each short-term let agreement Yes / No

Other matters to consider

Food safety – I understand the food hygiene and safety rules that apply to me. Yes / No
(further information available on Moray Council's website at www.moray.gov.uk/moray_standard_page_1785.html)

I comply with legal requirements that relate to fire safety set out in the Fire (Scotland) Act 2005. Yes / No

I have checked the title deeds of my premises. Yes / No

I will declare my income from my short-term let activity for tax purposes. Yes / No

I have checked with the lender of any standard security held over the premises that I am allowed to use my premises for this purpose Yes / No

I am complying with other legal requirements that affect me, my business or my premises Yes / No

I have considered engaging with my neighbours. Yes / No
Anyone can object to a short-term let licence so where relevant this may make the application process more straightforward.

Fees

I know the fee that I will be charged and I am ready to pay it with my application. Yes / No

I have submitted the following to Moray Council:-

Application Form	Yes / No
Additional Information Sheet(s)	Yes / No
Supporting Documentation	Yes / No

Mandatory:

Detailed floor/layout plan of the premises	Yes / No
Scottish Fire and Rescue Service Safety Checklist	Yes / No
Legionella Risk Assessment	Yes / No
Buildings Insurance Certificate	Yes / No
Public Liability Insurance Certificate	Yes / No
Licence Fee	Yes / No

If relevant:

Owner(s) consent declaration	Yes / No
Gas Safety Certificate for the premises	Yes / No
Electrical Installation Condition Report	Yes / No
Portable Appliance Testing Report	Yes / No
Energy Performance Certificate	Yes / No

I have completed the public notice form	Yes / No
---	----------

I will return the public notice form and submit a Certificate of Compliance to the Council at the expiry of the statutory notice period.	Yes / No
--	----------

Full Name of Applicant

Signature of Applicant

Or

Signature of Agent on behalf of Applicant

Full Name of Agent

Date



DECLARATION OF OWNER(S)

THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS) ORDER 2022

APPLICATION FOR A SHORT-TERM LET LICENCE

Licence Type applied for:-

Secondary Letting ☐

Home Letting ☐

Home Sharing ☐

Home Letting and Home Sharing ☐

Temporary Licence ☐

I, *[insert full name]*, residing at, *[insert full postal address including postcode]*, owner/joint owner, of the premises known as and forming, *[insert full postal address including postcode]*, hereby consent to the said premises to be used for the purposes of short-term letting and have given the applicant, *[insert full name]*, residing at, *[insert full postal address including postcode]*, my permission for the said applicant to apply for a *[insert licence type applied for]* short-term let licence.

Signature of owner/joint owner

Date

or

Signature of Agent on behalf of owner/joint owner

Date

Agents Address

.....

.....



LEGIONELLA RISK ASSESSMENT TEMPLATE, GUIDANCE NOTE & RISK ASSESSMENT REVIEW TEMPLATE

Legionella bacteria can cause a serious type of pneumonia (lung infection) called Legionnaires' disease. In terms of The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, whether or not the short-term let premises are served by a private water supply or Scottish Water, the licence holder must assess the risk from exposure to legionella within the premises.

Who Can Carry Out An Assessment?

Hosts/operators/licence holders ("you") can carry out a Legionella risk assessment themselves if the property is a single dwelling or a flat with its own water supply (hot and cold) and they are competent to do so. In particular you should:

- understand different types of water systems
- understand Legionella bacteria and the factors which increase the risk of an outbreak in a domestic setting
- understand the control measures which if present will reduce the risk of an outbreak within a domestic setting

Before considering carrying out a risk assessment you should familiarise yourself in particular with the following HSE publications: -

- Legionnaire's disease: A brief guide for duty holders - <http://www.hse.gov.uk/pubns/indg458.pdf>
- Legionnaire's disease Part 2: The control the relevant part of Legionella in hot and cold water systems
- <http://www.hse.gov.uk/pubns/indg458.pdf>

If you do not consider that you are competent then give the task to someone who is.

The Risk Assessment Process

The practical risk assessment should include a site survey of the water system. A template is attached which is suitable for a basic system and can be adapted as required. The assessor should complete all the sections coloured blue.

The assessor should understand the water systems and any associated equipment in the property, in order to conclude whether the system is likely to create a risk from exposure to Legionella.

It is important to identify whether:

- water is stored or re-circulated as part of the system (areas of risk include water tanks, dead legs, shower heads and/or long runs of pipe work containing warm water)
- the water temperature in some or all parts of the system is between 20 – 45°C (hot water should be stored in any tanks at 60°)
- there are sources of nutrients such as rust, sludge, scale and organic matters
- conditions are present to encourage bacteria to multiply
- it is possible for water droplets to be produced and, if so, whether they could be dispersed, e.g. showers
- there are parts of the system that are used infrequently e.g. guest bathrooms
- it is likely that any of the tenants, residents, visitors etc. are more susceptible to infection due to age, health or lifestyle and whether they could be exposed to any contaminated water droplets

Reviewing The Risk Assessment

If the risk assessment concludes there is no reasonably foreseeable risk or the risks are insignificant and are managed properly to comply with the law, the assessment is complete. Although no further action may be required at this stage, existing controls must be maintained. The assessment of risk is an ongoing process and not merely a paper exercise. The assessment should be reviewed regularly and specifically when there is reason to suspect it is no longer valid.

Legionnaires Disease Risk Assessment

Property address	
Date of assessment	
Assessment carried out by	

Describe property type	
Is there any tenant, resident, guest or regular visitor particularly susceptible to Legionella due to age, health or lifestyle?	
Describe type of cold-water system e.g. mains feed or from storage tank	
Describe type of hot water system e.g. mains feed via combi boiler or from storage tank.	

Risk Categories

1. Water Outlet Temperature

Is cold water temperature at outlets below 20°C?	Yes / No	
Is the hot water temperature above 50°C at outlets?	Yes / No	

Cold water must flow from outlets at below 20°C and hot water above 50°C to minimise risk. If temperatures are too low/high then adjustments need to be made to the system such as lagging of pipework or adjustment of temperature settings for hot water.

Identify any defect/risks and related recommendations associated with water outlet temperature. If any action is required identify responsible person: -

Defect/Risk	
Recommendation	
Responsible person: Owner/other	

2. Cold Water Storage Tanks

Is there one present?	Yes / No	
Location		
Does it have a tight fitting lid?	Yes / No	
Is the water in the tank clean and free from rust, debris, scale and organic matter?	Yes / No	
Is the temperature of the water in the tank below 20°C?	Yes / No	
Is the tank insulated?	Yes / No	

If any debris etc. is present in the system it should be drained and thoroughly cleaned. If debris is from corrosion on the tank itself then the tank may need to be replaced. All cold water tanks should have tight fitting lids to prevent debris entering the system. The water in the tank should be below 20°C and the tank should be insulated to prevent the temperature rising above this level.

Identify any defect/risk and related recommendations associated with cold water storage. If any action is required identify responsible person: -

Defect/Risk	
Recommendation	
Responsible person: Owner/other	

3. Hot Water

Is the temperature setting on the boiler and/or hot water tank such that the hot water is heated to and stored at a temperature of 60°C?	Yes / No	
--	----------	--

NB: If the temperature is set at above 60°C this can cause scalding to users.

The temperature setting on the boiler and/or hot water tank should be set and maintained at 60°C.

Identify any defect/risk and related recommendations associated with hot water. If any action is required identify responsible person: -

Defect/Risk	
Recommendation	
Responsible person: Owner/other	

4. Little Used Outlets

Are there any water outlets that are used less than once per week.	Yes / No? If yes, identify outlet & location
--	--

Any little used outlets should be flushed through weekly by running water through the outlet for at least 2 minutes. Aerosol production should be minimised during this process.

Identify any risks and related recommendations associated with little used outlets. If any action is required identify responsible person: -

Defect/Risk	
Recommendation	
Responsible person: Owner/other	

5. Shower Heads

Are there any showers in the property?	Yes / No?	If yes, identify location

All shower heads should be cleaned, disinfected and descaled at least once every 6 months. Aerosol production should be minimised during this process.

Identify any risks and related recommendations associated with shower heads. If any action is required identify responsible person: -

Defect/Risk	
Recommendation	
Responsible person: Owner/other	

6. Dead Legs and Redundant Pipework

Sections of pipework which are redundant or owing to the system design have little/no through flow of water (known as “dead legs”) can allow water to stagnate in the system. Are there any dead legs known in the system? If so, please describe.

Are there any dead legs in the property?	Yes / No?	If yes, identify location:

Any dead legs in pipework should be removed or the system altered so that water flows through all pipework on a regular basis.

Identify any risks and related recommendations associated with dead legs. If any action is required identify responsible person: -

Defect/Risk	
Recommendation	
Responsible person: Owner/other	

7. Unoccupied Properties

Is the property left unoccupied for periods of time?	Yes / No	
--	----------	--

During periods of inoccupancy all outlets on hot and cold water systems should be flushed through at least once a week for at least 2 minutes. For long periods consider draining the system. Make sure that the system is flushed through when it is re-occupied by running all outlets for at least 2 minutes. Aerosol production should be minimised during this process.

Identify any risks and related recommendations associated with inoccupancy. If any action is required identify responsible person: -

Defect/Risk	
Recommendation	
Responsible person: Owner/other	

8. Advice to Tenants

Has advice been given to the guests as to the risks of Legionnaires Disease in a domestic setting and their responsibilities to minimise risk?	Yes / No	
--	----------	--

The assessment is complete and should be reviewed regularly (at least once a year) and specifically when there is reason to suspect it is no longer valid. You should ensure that the recommendations above are implemented and any existing controls maintained.

Signed	Date	
Print name		

Legionnaire's Disease Risk Assessment Review

To be completed at least once per year.

Property address	
Date of assessment	
Assessment carried out by	

If any of the following are true, please tick the box on the right.

Since the original risk assessment was carried out: -

Has there been a change to the water system or the way it is used by occupants? ☐

Has there been a change to the use of the building where the system is installed? ☐

Is there new information available about risks or control measures? ☐

When testing the temperature of the water in the system, does hot water flow from any outlets at a temperature of below 50C? ☐

When testing the temperature of water in the system, does cold water flow from any outlets at a temperature of above 20C? ☐

Are the current tenants and their visitors more susceptible due to their age, health or lifestyle? ☐

Has there been a case of Legionnaires Disease associated with the system? ☐

If you have ticked in response to any of the questions above, a new risk assessment should be carried out by a competent person.

Signed	Date	
Print		



SHORT TERM LET (STL) LICENSING FIRE SAFETY CHECKLIST

Address			
		Postcode	
Dutyholder		Contact Tel No	
Contact Email			
Premises STL Reference			
Section A:	Premises Profile	Yes	No
Is the maximum occupancy of the premises for 10 persons or less (including children)?		<input type="checkbox"/>	<input type="checkbox"/>
Is the premises being used for home letting (as opposed to secondary letting) for 8 guests or less (including children)?		<input type="checkbox"/>	<input type="checkbox"/>
Does the premises have an escape route from each short term let bedroom via a hall and/or stair to at least one final exit door (which has direct access to the outside)?		<input type="checkbox"/>	<input type="checkbox"/>
Does the premises have letting accommodation on the ground and/or first floor only?		<input type="checkbox"/>	<input type="checkbox"/>
Is the premises storey areas less than 200 m ² internal floor space?		<input type="checkbox"/>	<input type="checkbox"/>
Section B:		Yes	No
Have you carried out and recorded a Fire Safety Risk Assessment which is available for inspection?		<input type="checkbox"/>	<input type="checkbox"/>
Has the Fire Safety Risk Assessment fully considered the diverse range of needs that guests may have in relation to fire safety?		<input type="checkbox"/>	<input type="checkbox"/>
Has the Fire Safety Risk Assessment been reviewed in the previous 12 months? <i>Where answer is "No" see guidance below for further advice</i>		<input type="checkbox"/>	<input type="checkbox"/>
	Have escape routes (fire resisting construction and self-closing fire doors where appropriate) been assessed as adequate for the property type through the premises Fire Safety Risk Assessment?	<input type="checkbox"/>	<input type="checkbox"/>
	Can you confirm that no inner rooms are used as sleeping accommodation?	<input type="checkbox"/>	<input type="checkbox"/>
	Are escape routes (including communal areas, where present) clearly signed as such and kept free from obstruction at all times?	<input type="checkbox"/>	<input type="checkbox"/>
	Have you recorded the evacuation procedures and ensured that guests are aware of them? E.g. have they been provided with the information in the form of a fire action notice or via a welcome folder? <i>Where answer is "No" see guidance below for further advice</i>	<input type="checkbox"/>	<input type="checkbox"/>

		Yes	No
Doors and Exits	Do all final exit doors, including the main entrance used by guests, open from the inside without use of a key? <i>Where answer is "No" see guidance below for further advice</i>	<input type="checkbox"/>	<input type="checkbox"/>
Firefighting Equipment (Extinguishers)	Is the firefighting equipment adequate for the risk in the premises (number, type, location)? ** as assessed through the premises Fire Safety Risk Assessment? <i>Where answer is "No" see guidance below for further advice</i>	<input type="checkbox"/>	<input type="checkbox"/>
	Is firefighting equipment maintained annually and recorded on the test labels and/or log book? <i>Where answer is "No" see guidance below for further advice</i>	<input type="checkbox"/>	<input type="checkbox"/>
Automatic Fire Detection	Is the level of automatic fire detection adequate within the premises as assessed through the premises Fire Safety Risk Assessment?	<input type="checkbox"/>	<input type="checkbox"/>
	Is the system tested weekly/monthly/annually and the results recorded in a Log Book? <i>Where answer is "No" see guidance below for further advice</i>	<input type="checkbox"/>	<input type="checkbox"/>
Emergency Lighting	Is there adequate provision for the lighting of emergency routes in the event of a mains failure as assessed through the premises Fire Safety Risk Assessment?	<input type="checkbox"/>	<input type="checkbox"/>
	Is any equipment provided tested and maintained with the results of tests recorded in a Log Book? <i>Where answer is "No" see guidance below for further advice</i>	<input type="checkbox"/>	<input type="checkbox"/>
General	Is there an up to date Fire Log Book including test certificates available for audit? <i>Where answer is "No" see guidance below for further advice</i>	<input type="checkbox"/>	<input type="checkbox"/>

Guidance Advice for Dutyholders

1. [Do You Have Paying Guests?](#) (Currently National Fire Chiefs Council Guidance for English based properties. This will be superseded by Scottish Guides in due course)
2. [Practical Fire Safety Guidance for Existing Premises with Sleeping Accommodation](#) (Where answers are yes in all of section A Annex 2 may be used.)
3. [Non-domestic fire safety](#)



GUIDANCE NOTES for SHORT-TERM LET APPLICANTS

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

Disclaimer

These notes have been prepared as an outline of the licensing provisions in connection with short-term lets introduced by The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Scotland Order 2022. While every effort has been made to ensure accuracy, these notes are for general guidance only and do not constitute legal advice. It is the responsibility of the applicant to ensure that they comply with the provisions of the Act, any statutory instruments made thereunder, the conditions outlined in the schedule attached to your licence and any policy/guidance notes issued by the Council.

Under no circumstances does Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. Moray Council accepts no responsibility for keeping the information in these pages up to date or liability for any failure to do so. If you are in any doubt you must seek advice from a solicitor.

Applicants should note that the Scottish Government has produced guidance for hosts and operators regarding licensing provisions in connection with short-term lets.

INTRODUCTION

The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Scotland Order 2022 ("the Order") requires all short-term let premises in Scotland to be licensed by the licensing authority in whose area the premises are situated. 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 effectively address issues faced by neighbours. This

Guidance provides advice to applicants about how to apply to Moray Council for a licence in respect of premises situated in Moray.

DEFINITION OF A SHORT-TERM LET

A short-term let is defined by the legislation as the use of residential accommodation provided by a host in the course of business to a guest, where all the following criteria are met –

- (a) the guest does not use the accommodation as their only or principal home,
- (b) the short-term let is entered into for commercial consideration,
- (c) the guest is not-
 - (i) an immediate family member of the host,
 - (ii) sharing the accommodation with the host for the principal purpose of advancing the guest's education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or
 - (iii) an owner or part owner of the accommodation,
- (d) the accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host or to another member of the host's household,
- (e) the accommodation is not excluded accommodation,
- (f) the short-term let does not constitute an excluded tenancy,

Commercial consideration – this includes money and a benefit in kind (such as a provision of a service or reciprocal use of accommodation).

Guest – this means a person who occupies accommodation under a short-term let.

Host – this means a person who is the owner, tenant or person who otherwise exercises control over occupation and use of the accommodation.

Immediate family member – a guest is deemed to be an immediate family member of the host if they are:

1. Your partner (spouse, civil partner or someone you live with as if you were married to them).
2. Is you or your partner's: parent or grandparent, child or grandchild or brother or sister.
3. Is the partner of one of your: parents or grandparents, children or grandchildren, or brothers or sisters.

Premises – means the accommodation which is the subject of an application for a short-term let licence or the subject of a short-term let licence.

EXCLUDED PREMISES

Certain premises are excluded (excluded accommodation) and will not need a licence. The Order specifically sets out that excluded accommodation means accommodation which is, or is part of the following:-

- (a) an aparthotel,
- (b) 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 that Act,
- (c) a hotel which has planning permission granted for use as a hotel,
- (d) a hostel,
- (e) residential accommodation where personal care is provided to residents,
- (f) a hospital or nursing home,
- (g) a residential school, college or training centre,
- (h) secure residential accommodation (including a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation, or accommodation used as military barracks),
- (i) a refuge,
- (j) student accommodation,
- (k) accommodation which otherwise requires a licence for use for hire for overnight stays,
- (l) accommodation which is provided by the guest,
- (m) accommodation which is capable, without modification, of transporting guests to another location,
- (n) a bothy, or
- (o) 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.

EXCLUDED TENANCIES

You will not require a licence where certain tenancies are granted in respect of the premises e.g. private residential and social housing tenancies. The Order specifically sets out that an excluded tenancy means a tenancy which falls within any of the following definitions –

- (a) a protected tenancy (within the meaning of section 1 of the Rent (Scotland) Act 1984),
- (b) an assured tenancy (within the meaning of section 12 of the 1988 Act),
- (c) a short assured tenancy (within the meaning of section 32 of the 1988 Act),

- (d) a tenancy of a croft (within the meaning of section 3 of the 1993 Act),
- (e) a tenancy of a holding situated outwith the crofting counties (within the meaning of section 61 of the 1993 Act) to which any provisions of the Small Landholders (Scotland) Acts, 1886 to 1931) applies,
- (f) a Scottish secure tenancy (within the meaning of section 11 of the 2001 Act),
- (g) a short Scottish secure tenancy (within the meaning of section 34 of the 2001 Act),
- (h) a 1991 Act tenancy (within the meaning of section 1(4) of the 2003 Act),
- (i) a limited duration tenancy (within the meaning of section 93 of the 2003 Act),
- (j) a modern limited duration tenancy (within the meaning of section 5A of the 2003 Act),
- (k) a short limited duration tenancy (within the meaning of section 4 of the 2003 Act),
- (l) a tenancy under a lease under which agricultural land is let for the purpose of its being used only for grazing or mowing during some specified period of the year (as described in section 3 of the 2003 Act),
- (m) a private residential tenancy (within the meaning of section 1 of the 2016 Act), or
- (n) a student residential tenancy.

If you are in any doubt about whether your premises requires a short-term let licence, please contact the Council's licensing team at licensing@moray.gov.uk for general assistance.

HOW DO I APPLY FOR A LICENCE

Licences are issued by the Licensing and Regulatory Team within the Council's Governance Strategy and Performance Service. You will need to complete the short-term lets licence application form and submit this together with supporting documentation and the licence fee to the Council. You can complete the application form electronically and email it to licensing@moray.gov.uk. Alternatively, you can complete a paper copy and send it to Moray Council Licensing Team, Council Offices, High Street, Elgin, IV30 1BX.

The Council will assess your suitability and that of the other people named on the application form and your compliance with the mandatory licence conditions applicable across Scotland.

TIMESCALE FOR APPLYING

After 1 October 2022, new hosts and operators will need to have a short-term let licence. This means, if you are 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. This also applies to existing operators who establish a new short-term let accommodation after 1 October 2022.

Existing hosts and 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 receive guests) unless your licence application has been determined and refused.

After 1 April 2023, existing hosts can only continue to operate if they have submitted an application for a short-term let licence on or before 1 April 2023 that has not yet been determined or been granted by Moray Council.

FEE

You should pay the application fee online, by telephone, or by cheque made payable to the Moray Council. Full payment of the application fee should be made at the same time the completed application is submitted to Moray Council. A Schedule setting out all Council fees relevant to the short-term let licence scheme can be found on the Council's website [\[here\]](#).

The short-term let licence fee is calculated on a cost recovery basis only. This means that, as far as possible, the licence fee represents the actual cost to Moray Council of processing the licensing application. Once a licence application has been processed, those costs have been incurred. If your application is refused or granted for a shorter period than you applied for, the fee will not be refunded or reduced.

If required, the Council's Environmental Health Service will undertake any on-site compliance checks required for applications, taking a proportionate and risk-based approach. If an inspection of the premises is considered necessary, e.g. where concerns are raised during the consultation part of the application process, you must pay the inspection fee. The need for an inspection may be minimised if the supporting documents as part of the application form are sufficient to:

- verify compliance with mandatory conditions; and
- to determine the maximum occupancy number.

THE APPLICATION FORM

The application form is split into the following 10 sections with 5 appendices:-

- A. Licence details
- B. Applicant details
- C. Day to day management of the premises
- D. Previous/other short-term let licence details
- E. Ownership of the premises
- F. Premises
- G. Occupancy and availability
- H. Criminal convictions
- I. Residence outside the UK
- J. Declaration

- Appendix 1 – Public Notice for Application for Short-term Let licence and Confirmation of Display notice
- Appendix 2 – Application Checklist
- Appendix 3 – Style Declaration/Consent of Owners
- Appendix 4 – Legionella Risk Assessment Template & Guidance Note, and Risk Review Template
- Appendix 5 – Scottish Fire and Rescue Service Checklist

General Points on Completion

- You must answer all of the questions as fully as you can as failure to do so may result in your application being returned to you. Your application will not be processed until you have provided all the necessary information. **Unless and until a valid application is received the application will not be considered to have been made at all.**
- Check what supporting documentation you will need and ensure you have this before submitting your application to Moray Council.
- The application form should be completed in typescript, or where by hand, in block capitals in black ink.
- Where the question requires a “Yes” or “No” answer please strikethrough the answer which does not apply to you. The example question and answer below tells Moray Council that you DO intend to carry out the day to day management of the premises;
Q. Do you intend to carry out the day to day management of the premises? YES /~~NO~~
- Where the question asks you to tick one box only, please tick the box which indicates your answer.
- If you have other information relevant to your application that you wish to include, use the space provided on “Additional Information Sheet (2/2)”.

SECTION A. LICENCE DETAILS

You need a separate licence for each of your premises, whether or not they are all in the Moray area. If your premises are not situated within Moray, you need to make an application to the licensing authority for the relevant local authority area. You do not need a separate licence for short-term lets on the same premises e.g. if you are letting out two rooms in your home, that would be covered by one licence. One licence may also cover unconventional accommodation where there is more than one separately bookable property on the site.

- 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, e.g. whilst you are on holiday.
- Home Sharing and Home Letting – means you operate short-term lets from your own home while you are living there and also for periods when you are absent.
- Secondary letting – means the letting of property where you do not normally live for example, a second home.

Dwellinghouse means an independent dwelling (with its own front door, kitchen and bathroom) such as a house, flat, cottage etc.

Unconventional accommodation means residential accommodation that is not defined as a dwellinghouse e.g. glamping pods, yurts etc.

Temporary Licence

You can apply for a temporary licence for a duration of up to six weeks. A temporary licence cannot be renewed. If you apply for a full licence during the period of a temporary licence, the temporary licence may be extended until your full licence application is finally determined. Please note, an application for a temporary licence is subject to the same mandatory conditions which apply to all short-term let licences. It is also subject to the same consultation process. This means, you still need to provide the same supporting documentation whether you are applying for a full licence or a temporary licence. In accordance with the legislation, you do not have to display the site notice and return the certificate of compliance (appendix A of the application form) when you are applying for a temporary licence.

SECTION B – APPLICANT DETAILS

Indicate whether you are applying for a licence for the premises as an individual or as a corporate entity (e.g. a company or charity) by ticking one box. If you are self-employed running your own business you need to apply as an individual. You need to identify all the people who need to be named on the application form.

B.1 If you are applying as an individual, you need to provide the following information at B.1 Personal Details;

- 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.2 If you are applying as a corporate entity (e.g. a company or a charity) you need to provide the following information at B.2 Corporate Entity;

- 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.

If you require additional space to provide information, you can use the “additional information sheet” with the application.

SECTION C. DAY TO DAY MANAGEMENT OF THE PREMISES

Where you intend to appoint somebody else to manage your property, you need to provide the same details irrespective of whether you are applying as an individual or a corporate entity. 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. You do not need to name the employees of the agency. You do not need to name everyone with any involvement in your arrangements e.g. a cleaner or other people who enter the premises are not to be named for that reason alone.

Only those named as the licence holder can carry out the day to day management of the premises.

Please note, after a licence is granted if you decide to make different arrangements for the day-to-day management of the premises (e.g. passing responsibility to a letting agency) you must first notify and obtain approval from Moray Council.

SECTION D. PREVIOUS/OTHER SHORT-TERM LET LICENCE DETAILS

You need to confirm whether you or anyone else named on the application has held a short-term let licence. This includes licenses issued by Moray Council and those issued by any other Scottish licensing authority. If you or anyone else named on the application has held a short-term let licence, you need to provide the licensee's full name, name of the licensing authority who granted the licence and the type of short-term let licence held on the application form.

SECTION E. OWNERSHIP OF THE PREMISES

If you do not own the premises (or the land on which the premises are located), or if you share ownership, you must have the consent of each owner (or each other owner) for the licence application. If consent is required, your application will be refused if you do not provide it.

You must provide:

- a) a declaration from each owner of the premises (or land on which the premises are located) that they consent to the application, or
- b) a declaration from a person who is authorised to act on behalf of each owner of the premises (or land on which the premises are located).

A style/template declaration is provided in Appendix 3 to the application form.

SECTION F. PREMISES

Provide the full address of the premises you are seeking a licence for including the postal code and the premises name if relevant. To confirm the Moray Council Ward where the premises are located, tick the box next to the appropriate Ward. Further

details about Wards can be found on the Council's website here: http://www.moray.gov.uk/moray_standard/page_52901.html.

You need to confirm whether or not the premises are located within a National Park by answering "yes" or "no". If the answer is yes, please confirm the National Park where the premises are located by ticking the relevant box from the two options provided.

Please indicate whether the premises were available for short-term let on or before 30 September 2022. Until 1 April 2023, the law applying to the scheme distinguishes between "existing hosts" and "new hosts".

F.1 Description of Premises

General written description

Provide a general written description of the premises. Try and write your description as though you are describing your premises to someone who does not know it at all. Describe the type of building e.g. is it detached, semi-detached, in a terrace, part of a tenement etc. Describe whether the property is spread over a number of floors e.g. ground 1st and 2nd floors or if not state e.g. ground floor only but other property is above. Describe where the premises are located e.g. in town centre, in a village, in rural/countryside location etc. Describe the type of properties surrounding the premises, e.g. residential area, commercial area, mixed residential/commercial, shopping area etc. If the premises you are seeking a licence for is not a dwellinghouse, e.g. a pod(s) in a field, you should describe the premises in as much detail as possible.

Floor/Layout plan

You must include a detailed floor/layout plan with your application. There is no requirement for the plan to be drawn by an architect or other professional you can draw it yourself. Please note, the plan should be drawn to scale (see below). You must ensure it is clear. Unclear plans may be returned to you. You can use legend and symbols on the plan as well as colour coding to indicate particular areas e.g. the areas guests may/may not have access to.

Your plan should indicate:-

- The extent and dimensions of the boundary of the building and any external and internal walls of the building, and, if different, the perimeter and dimensions of the premises.
- The location and names of any streets/roads surrounding the premises from which guests have access to the premises.
- The location and width of each point of access to and egress from the premises.
- The room sizes.
- Fire escape routes.
- Steps, stairs both internally and externally.
- Elevators and/or lifts.

- Accommodation intended for guests with mobility impairment.
- You must clearly indicate the extent and boundary of the building. If the premises is not a dwellinghouse e.g. pod(s)/yurt(s) in a field, the plan should indicate the size of the field as well as the individual pod(s)/yurt(s) itself.

Scale

The plan should be drawn to scale where 1 millimetre represents 50 millimetres. Generally, a scale of 1:50 will prevent loss of detail and enable easier reading of the plan by Moray Council officers. In addition, when determining the maximum number of occupants which can be safely accommodated in the premises and other mandatory licence conditions, a scale of 1:50 is in line with drawings rather than simple layouts.

Where premises are quite large such that a scale of 1:50 would not reasonably fit onto A1 paper then we suggest you choose a scale where 1 millimetre represents 100 millimetres (i.e. 1:100).

Please indicate the scale you are using clearly on the layout/floor plan.

Third party accreditation or certification

If the premises has been awarded accreditation or certification by a third party provide full details of the name of the awarding party, date of the award and level of award e.g. number of stars.

F.1.1 Rooms

You must detail the total number of rooms within the premises as well as the total number of letting bedrooms, total number of beds available for use by the guests, total number of public rooms available for use by the guests e.g. lounge/dining room etc. and the total number of rooms used for the owners/manager's private accommodation.

F.1.2 Catering

You must confirm whether or not you provide catering at/on the premises. Answer each catering question by confirming yes or no.

F.2 General Safety and Standards

This section of the application form asks you questions regarding the general safety and standards applicable to the premises.

F.2.1 Fire Safety

The Order sets out conditions around fire safety which the Council will check you are compliant with when considering your application. You are required to ensure that the 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.

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 about this can be found in the Scottish Government Guidance, "[Tolerable Standard Guidance: Satisfactory Fire Detection and Satisfactory Carbon Monoxide Detection](#)".

Any upholstered furnishings and mattresses within the parts of the premises intended for guest use, or to which the guests are allowed access to, must comply with the Furniture and Furnishings (Fire Safety) Regulations 1988 and you need to keep records to evidence your compliance. Ways to comply with this condition could be by keeping photographic evidence, removing and retaining the labels themselves or by keeping receipts which confirm compliance (e.g. by providing a reference number or accurate description of the product). You would then be able to provide these if requested. If you are home sharing (i.e. 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 e.g. your bedroom.

In addition to the conditions within the Order, you must comply with the requirements of the Fire (Scotland) Act 2005, which the Scottish Fire and Rescue Service are responsible for enforcing. The 2005 Act requires the person who has control of the premises to provide fire safety measures, including risk reduction measure, means of fire warning, fire-fighting, escape, staff training and instruction, as well as emergency procedures and maintaining of good records. It sets out fire safety responsibilities and seeks to ensure people are safe from harm. You can find out more in the Scottish Government Publication, "Fire Safety – existing premises with sleeping accommodation: practical guidance" which can be found by clicking on the following link; <https://www.gov.scot/publications/practical-fire-safety-guidance-existing-premises-sleeping-accommodation-2/>.

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

You must complete the Scottish Fire and Rescue Service's checklist and send a copy of your completed checklist to Moray Council with your licence application.

F.2.2 Gas Safety

If the premises has a gas supply you must arrange for an annual gas safety inspection of all gas pipes, flues and appliances in the premises. If, after an annual inspection, any appliance does not meet the required safety standard, you must not allow a short-term let of the premises until the works necessary to bring the appliance to the required safety standard have been carried out.

If the premises does have a gas supply, you must provide a copy of the most recent Gas Safety Certificate for the premises with your application to Moray Council. Moray Council will check that a currently valid, annual gas safety check has been carried out on all gas appliances by a Gas Safe registered engineer. It is your responsibility to ensure that a gas safety inspection is completed each year even if your licence lasts for more than one year.

F.2.3 Electrical Safety

Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are allowed access to, you must:-

- (a) ensure that any electrical fittings and items are in a reasonable state or repair and 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.

The Order sets out that when deciding who is a competent person, you must have regard to the guidance issued by the Scottish Ministers under 19B(4) of the Housing (Scotland) Act 2006.

The Scottish Government has produced statutory guidance on electrical installations and appliances in private rented property which you can find [here](#). Annex A of that guidance sets out who is competent to conduct an Electrical Installation Condition Report. You may find this helpful as the standards that apply to private residential tenancies also apply to short-term lets.

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

Electrical Installation Condition Report means a report containing the following information:-

- (a) the date on which the inspection was carried out,
- (b) the address of the premises inspected,
- (c) the name, address and relevant qualification of the person who carried out the inspection,
- (d) a description, and the location, of each installation, fixture, fitting and appliance inspected,
- (e) any defect identified,
- (f) any action taken to remedy a defect.

If there are electrical fittings or items within the premises intended for guest use or which the guests are allowed access to, you must provide a copy of the most recent Electrical Installation Condition Report on fixed installations to Moray Council with your licence application.

If guests have access to, or are permitted to have access to moveable electrical appliances within the premises you must also provide a copy of the most recent Portable Appliance Testing Report on moveable appliances with your application.

A moveable electrical appliance generally means any item that can be moved, either connected or disconnected from an electrical supply.

F.2.4 Water Safety

If the premises has a water supply that is not supplied by Scottish Water (i.e. a private water supply) then you need to comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017. 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](#)

Whether or not your premises are served by a private water supply or Scottish Water, you must assess the risk from exposure to legionella within the premises. This means you should complete a legionella risk assessment. The risk assessment does not need to be carried out by a professional; you can do it yourself. You must keep a record of what assessment you have carried out and provide a copy of the risk assessment you have carried out in respect of legionella to Moray Council with your licence application. You can find out more on the Health and Safety Executive webpage on legionella and landlords' responsibilities [here](#).

A style legionella risk assessment form together with a guidance sheet is provided in Appendix 4 of the application form.

F.2.5 Safety & Repair Standards

You must take all reasonable steps to ensure the premises is safe for residential use. The Order and these guidance notes cannot anticipate every circumstance.

Repairing Standard

If the premises is a dwellinghouse, you must ensure that the premises meet the repairing standard. "Repairing standard" means the steps which the holder of the licence is required to take to comply with the obligations placed on the holder by Chapter 4 of Part 1 of the Housing Scotland Act 2006.

The repairing standard requires;

- the premises are 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 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.

Tolerable Standard

The tolerable standard is the minimum standard for all housing and premises which fall below this standard is considered to be unfit for human habitation. The repairing standard is higher and all housing which meets the repairing standard must meet the tolerable standard. Private residential tenancies and Houses in Multiple Occupation (HMOs) are also required to meet the requirements of the repairing standard.

You can find more information about both the repairing and tolerable standards by clicking the following links;

<https://www.gov.scot/publications/repairing-standard/>
<https://www.mygov.scot/landlord-repairs/tolerable-standard>

F.2.6 Energy Performance Certificate

Energy Performance Certificate (EPC) means a certificate which complies with regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008. If you are using a dwellinghouse for secondary letting, you must have a valid EPC Certificate issued within the last 10 years. Scottish Government Guidance on EPC requirements for holiday lets can be found here: <https://www.gov.scot/publications/energy-performance-certificates-for-holiday-lets-guidance/>.

If you have an EPC for the premises, please tick the relevant EPC Rating (options are A to G) box which applies to your premises. If you have an EPC for the premises, you must enclose a copy with your application.

F.2.7 Building Warrant

You must confirm whether there has been any building work carried out on the premises in the last ten years. If there has, you must specify what building work has been carried out. A building warrant is normally required if you intend to erect, alter, extend, demolish or change the use of any building. A building warrant gives you permission for the design and construction of the work and includes things like fire protection and escape, drainage, energy conservation and safety and wellbeing of occupants. Building regulations make sure that the work meets minimum standards. You can find more information about building warrants by searching, “*Do I need a building warrant?*” at www.moray.gov.uk.

It is the building owner’s responsibility to establish whether a building warrant or any other permission is required prior to the commencement of any building operations.

F.2.8 Insurance

Under this section you are asked to provide details of both your buildings insurance and public liability insurance policies. The holder of the licence must ensure that there is valid buildings insurance for the duration of the licence in place for the premises. The holder of the licence must also ensure that there is valid public liability insurance for not less than £5 million in place for the premises for the duration of each short-term let agreement.

F.3 Planning Permission

If you have decided to let either all or part of your premises for short-term let, you may be required to apply for a “change of use” planning permission. Planning permission can be required in situations whereby using the premises as a short-term let amounts to a “material change of use”. While there is no statutory definition of “material change of use” Planning Guidance explains that a material change of use is a matter of fact and degree and cases are decided on their individual merits. You can find more information about planning permission by searching, “*Do I need planning permission?*” at www.moray.gov.uk. **You must check whether you need planning permission before you submit an application for a short-term let. If you do need planning permission, you should apply for this before you apply for a short-term let licence.**

Moray Council licensing service will be notified by the Council’s Planning Service if planning permission has been refused in respect of the premises. Any application for a short-term let licence contingent on planning permission will then be refused, varied or revoked as appropriate.

On 1 March 2022, the Town and Country Planning (Short-term Let Control Areas)(Scotland) Amendment Regulations 2022 came into force. You must have made an application for planning permission if your premises is in a control area, you are using it for secondary letting and it is a dwellinghouse. 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.

If it looks like you need planning permission and you do not have it, the Council can refuse to consider your application.

Moray Council has 21 days from receipt of a valid application to decide to refuse to consider the application on this ground. If we refuse to consider your application for this reason, we will tell you within seven days and explain why we are refusing to consider your application.

Please note, it is possible that Moray Council could designate a control area affecting your premises after you have been granted a licence. Should this happen, in order to comply with the mandatory licence condition, you should submit a planning application as soon as possible after the control area is designated. Moray Council will make reasonable allowance for you to do this.

SECTION G. OCCUPANCY AND AVAILABILITY

Please note, if you have a HMO licence for the premises, you still need a short-term let licence if the premises is also to be used for short-term lets. You will also still need a short-term let licence whether or not you live at the premises covered by your HMO licence.

You must detail the total number of guests you would like to accommodate at any one time in the premises as well as a breakdown of the total number of both adult and child (aged over 10) guests.

It is a mandatory condition that hosts and operators ensure that they do not exceed the maximum number of guests for their premises. This includes making the maximum occupancy clear on adverts and listings and in booking terms and conditions. Please note, while you are asked to indicate on the application form how many guests you would like to accommodate, that number is subject to verification and confirmation. Moray Council will determine the maximum occupancy permitted in terms of the licence. If you would like more information about how Moray Council will determine the maximum occupancy for short-term let licences, please see “Statement of Licensing Policy for Short-term Lets” [\[here\]](#).

You must indicate how often you intend to make the premises available to guests by ticking the box that applies to you. If the available bandings do not reflect how often your premises will be available to guests, please use the space at “other please describe” to tell Moray Council in words what the availability will be.

SECTION H. CRIMINAL CONVICTIONS

This section asks whether you, or anyone named on the application form has ever been convicted of any crime or offence. Please note that this includes driving fixed penalties. Full details of the need to disclose convictions appear on the website.

Unspent Convictions

Unspent Convictions must always be disclosed.

Spent convictions

A spent conviction is a criminal conviction that, under the Rehabilitation of Offenders Act 1974, can be treated as “spent” after a certain length of time. Although you are not required to disclose any convictions which are “spent”, the Police may raise an objection on the basis of any spent convictions you may have and the Council may thereafter decide to consider these if they are determined to be relevant to your application. If you think a conviction is spent you should seek independent legal advice.

Failure to disclose convictions is a criminal offence and any applicant failing to disclose a conviction may be reported to the Procurator Fiscal with a view to prosecution.

SECTION I. RESIDENCE OUTSIDE THE UK

If you or anyone else named in the application have lived outside of the UK for a continuous period of 12 months or more you must provide details of all the Countries lived in. You must provide evidence of criminal history for you and anyone else named in the application.

If you, or anyone else named in the application, **were born in the UK** but have lived in any other country within the ten years prior to your application for a continuous period of 12 months or more you must provide a Criminal Record Check for all those countries for the relevant period(s).

If you, or anyone else named in the application, **were born outwith the UK** you must provide a Criminal Record Check from your country of origin for the time of residence there IF it was in the last 10 years, unless you, or anyone else named in the application, left that country without reaching the criminal age of responsibility. You must also provide a Criminal Record Check from any other country in which you, or anyone else named in the application, have resided for a continuous period of 6 months or more in the 10 years prior to the application.

In all cases, the Criminal Record Checks provided must:-

- have been obtained within the six months immediately prior to submitting the application; and
- be translated into English; and
- be verified by the relevant UK based Embassy or High Commission.

Note: The certificate must be produced before the licence can be granted. Whilst it is desirable for the applicant to produce the certificate with the application, it is not a strict requirement. This is so any applicant having difficulties will not be disadvantaged by delays to processing the application.

At the applicants choosing, the application can be accepted as valid without the convictions evidence but the evidence should be provided as soon as possible. In this way the convictions evidence will be a check rather than a validation. Applicants should still note, however, that the licence cannot be granted without the evidence having been produced. Therefore if the application is approaching the determination time limit without the evidence being produced, the application may be refused for failure to comply with administrative provisions.

If you are experiencing difficulties in obtaining a certificate then please contact the licensing team to discuss your options. It may be possible to accept alternative evidence, for example: evidence of checks having been carried out by another government body; affidavits; or character references. In cases where it is not possible to provide any satisfactory evidence, the application will be referred to the Licensing Committee for a decision. Therefore the application may be delayed pending the outcome of a hearing.

SECTION J. DECLARATION

You (or an agent on your behalf) are required to sign and date the following three declarations on the application form:-

1. Display of Public Notice

You (or an agent on your behalf) are required to sign and date the application confirming that you will display a public notice complying with the requirements of Paragraph 2(2) of the Civic Government (Scotland) Act 1982.

You must notify your neighbours about your application for a licence by displaying a site notice at or near the short-term let premises so it can be conveniently read by the public. The site notice should be displayed for a period of 21 days from the date a valid licence application was submitted to Moray Council.

A form which can be used for this purpose is provided in Appendix 1 to the application form.

Once the site notice has been displayed for a period of 21 days, you must complete the confirmation of display notice and return the confirmation together with the site notice to Moray Council at Council Offices, High Street, Elgin, IV30 1BX. You may also wish to consider submitting additional evidence demonstrating compliance such as a time stamped photograph of the site notice in situ.

2. Compliance with mandatory licence conditions

You (or an agent on your behalf) are also required to sign and date the application confirming that you have met the mandatory licence conditions set out in the Order.

3. Declaration that information on application is true

You (or an agent on your behalf) are required to sign and date the application confirming that all information provided on the application form is true. If you are submitting your application electronically, you can use an electronic signature.

Please note, it is an offence for any person to make a statement which he knows to be false in the application or in connection with the making of the application.

APPENDIX 1 – PUBLIC NOTICE OF APPLICATION FOR SHORT-TERM LETS LICENCE AND CONFIRMATION OF DISPLAY NOTICE

Applicants are required to display a site notice at or near premises so it can be conveniently read by the public for a period of 21 days beginning with the date on which a valid application was submitted to Moray Council.

Applicants required by para 2(4) of schedule 1 to the Civic Government (Scotland) Act 1982 to certify compliance that they have displayed the site notice as soon as possible after the 21 days have expired.

A template public notice of application for a short-term lets licence and confirmation of display notice are provided in appendix 1.

APPENDIX 2 – APPLICATION CHECKLIST

A checklist is provided with the application form for a short-term let licence. The application checklist is a list intended to provide a helpful starting point for checking

you have the relevant information required in order to submit an application for a short-term let licence. Getting your application right first time will make the process easier for you and will help you to get a decision more quickly.

The checklist is split into the following categories:

- Preliminary
- Responsibility for the property
- General safety and standards
- Other
- Other matters to consider
- Fees
- List of documents submitted to Moray Council
- Signature of applicant/Agent on behalf of applicant

You must fully complete the checklist. You should strikethrough the “yes” or “no” answer which does not apply to you e.g. to tell the Moray Council you HAVE submitted additional information sheets with your application form, strikethrough “No” when given the “Yes / No” option.

APPENDIX 3 – STYLE DECLARATION OF OWNER(S)

A style declaration and consent of owners or other owners is provided in appendix three of the application form.

APPENDIX 4 - LEGIONELLA RISK ASSESSMENT TEMPLATE

Whether or not the premises is supplied by a private water supply, you are required to carry out a legionella risk assessment at the premises. A template together with some guidance is provided in appendix four of the application form.

APPENDIX 5 – SCOTTISH FIRE AND RESCUE SERVICE CHECKLIST

Scottish Fire and Rescue Service have designed their own checklist for premise owners. The form is split into two sections, the first being the premise profile and the second asking for information to ensure that a fire risk assessment is suitable and sufficient. The checklist provided by Scottish Fire and Rescue Service is provided in Appendix 5 of the application form. You must complete the form and submit it along with your application to Moray Council.

CONSULTATIONS

Every person named on the application form is subject to the fit and proper person test. Moray Council will determine whether you, or anyone else named on the application form, is a fit and proper person to offer accommodation for short-term let in the Moray area. Moray Council will assess the fitness of the applicant and any

agents or day-to-day managers to be involved in providing short-term lets. In deciding this, Moray Council will take account of the following factors:-

- any relevant convictions and other relevant information obtained from Police Scotland,
- being disqualified from being a private landlord or having had letting agent or property factor registration revoked now or in the past,
- having had a licence for short-term lets or HMO revoked by any licensing authority,
- having had an application for short-term lets licence refused by any licensing authority; and
- providing false or misleading information in an application for a short-term lets licence, HMO licence or application to be a private landlord.

When determining your application, Moray Council will consult with the following;

- Police Scotland
- Scottish Fire and Rescue Service
- Moray Council Environmental Health Service
- Moray Council Planning Service
- Moray Council Building Standards Service

TIMESCALES FOR DETERMINATION

Existing hosts who make an application before 1 April 2023 can continue operating whilst their application is being determined. Moray Council has 12 months to determine these applications beginning with the date a valid application was made. This extension to the time limit for determining an initial application is designed to assist Moray Council manage the volume of applications received.

In all other cases, Moray Council has 9 months from the date a valid application is made to consider and determine each application for short-term lets.

If Moray Council fails to determine your application within the timescale set out above, your short-term let licence will be deemed to have been granted unless Moray Council is given an extension by the Court. If your short-term let licence is deemed to have been granted it is valid for the period of one year. The mandatory conditions that apply to all short-term lets would also apply to the deemed grant of a licence.

PUBLIC REGISTER

Moray Council is required to maintain a public register of short-term let licences. The register is available to the public electronically and includes the following information about short-term let premises;

Personal information:-

- Names and registered offices (where an application is made on behalf of a company/corporate body)
- Names of any day-to-day managers
- Contact details for the manager of the premises, if different from the applicant, and
- Address of the premises including postcode and Unique Reference Number

Other information:-

- number of bedrooms in the premises
- data on availability and maximum occupancy for the premises
- the Energy Performance Certificate rating
- Identify whether the premises is within a National Park

LICENCE HOLDER RESPONSIBILITIES UPON OBTAINING A LICENCE

Information to be displayed

You (as licence holder) must make the following information available within the premises in a place where it is accessible to all guests—

- a certified copy of the licence and the licence conditions,
- fire, gas and electrical safety information,
- details of how to summon the assistance of emergency services,
- a copy of the gas safety report,
- a copy of the Electrical Installation Condition Report, and
- a copy of the Portable Appliance Testing Report.

How you do this is up to you. The important point is that guests can access the information easily. You may wish to consider providing digital copies alongside booking information.

“gas safety report” means a report containing the following information-

- the date on which the appliance or flue was checked,
- the address on the premises at which the appliance or flue is installed,
- a description of and the location of each appliance or flue checked,
- any safety defect identified,
- any remedial action taken,
- confirmation that the check undertaken complies with the requirements of an examination of-
 - the effectiveness of any flue,
 - the supply of combustion air,
 - subject to head (iv), its operating pressure or heat input or, where necessary, both,
 - if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,
 - its operation so as to ensure its safe functioning,
- the name and signature of the individual carrying out the check, and

- (h) the registration number with which that individual, or that individual's employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998.

Listings

You must ensure that any listing or advert (whether electronic or otherwise) for the 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.

You must display your licence number on any listing or advert. Where you have electronic listings or adverts you should update your listing or advert as soon as you receive your licence.

COMPLY WITH LICENCE CONDITIONS

You must ensure that you comply with all the mandatory and any other conditions on your licence. It is a criminal offence for a licence holder to fail to comply with a licence condition.

You must notify Moray Council of any material change to your circumstances during the period of the licence. It is a criminal offence to fail to notify Moray Council of a material change in circumstances.

MANDATORY LICENCE CONDITIONS

The mandatory licence conditions are set out in Schedule 3 of the Order. Every applicant for a short-term let licence must meet and adhere to the statutory mandatory conditions which are:-

1. Agents

Only those named as a holder of the licence can carry out the day to day management of the short-term let of the premises.

2. Type of Licence

The holder of the licence may only offer the type of short-term let for which the licence has been granted.

3. Fire Safety

The holder of the licence must ensure the premises has satisfactory equipment installed for detecting, and for giving warning of –

- (a) fire or suspected fire, and
- (b) the presence of carbon monoxide in a concentration that is hazardous to health.

4. The holder of the licence must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988.
5. **Gas Safety**
Where the 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 allow a short-term let of the premises until the works necessary to bring the appliance to the required safety standard have been carried out.
6. **Electrical Safety**
Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the holder of the licence 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.
7. In determining who is competent, the holder of the licence must have regard to guidance issued by the Scottish Ministers under section 19B(4) of the Housing (Scotland) Act 2006.
8. **Water safety: private water supplies**
Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.
9. **Water safety: legionella**
The holder of the licence must assess the risk from exposure to legionella within the premises, whether or not the premises are served by a private water supply.
10. **Safety & repair standards**
 - (1) The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.
 - (2) Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the holder of the licence must ensure that the premises meet the repairing standard.

11. Maximum Occupancy

The licence holder must ensure that the number of guests residing on the premises does not exceed the number specified in the licence.

12. Information to be displayed

The holder of the licence 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.

13. Planning Permission

Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”), the holder of the licence must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either –

- (a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or
- (b) planning permission under the 1997 Act is in force.

14. Listings

- (1) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises includes –
 - (a) the licence number, and
 - (b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008.
- (2) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises is consistent with the terms of the short-term let licence.

15. Insurance

The holder of the licence must ensure that there is in place for the premises –

- (a) valid buildings insurance for the duration of the licence, and
- (b) valid public liability insurance for the duration of each short-term let agreement.

16. Payment of fees

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

17. False or misleading information

The holder of the licence must not provide any false or misleading information to the licensing authority.

18. Interpretation

In this schedule –

Electrical Installation Condition Report” means a report containing the following information—

- (a) the date on which the inspection was carried out,
- (b) the address of the premises inspected,
- (c) the name, address and relevant qualifications of the person who carried out the inspection,
- (d) a description, and the location, of each installation, fixture, fitting and appliance inspected,
- (e) any defect identified,
- (f) any action taken to remedy a defect,

“Energy Performance Certificate” means a certificate which complies with regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008,

“gas safety report” means a report containing the following information—

- (a) the date on which the appliance or flue was checked,
- (b) the address of the premises at which the appliance or flue is installed,
- (c) a description of and the location of each appliance or flue checked,
- (d) any safety defect identified,
- (e) any remedial action taken,
- (f) confirmation that the check undertaken complies with the requirements of an examination of—
 - (i) the effectiveness of any flue,
 - (ii) the supply of combustion air,
 - (iii) subject to head (iv), its operating pressure or heat input or, where necessary, both,
 - (iv) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,
 - (v) its operation so as to ensure its safe functioning,
- (g) the name and signature of the individual carrying out the check, and
- (h) the registration number with which that individual, or that individual’s employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998,

“holder of the licence” means any person to whom a short-term let licence has been granted or jointly granted,

“home letting” means a short-term let consisting of the entering into of an agreement for the use, while the host is absent, of accommodation which is, or is part of, the host’s only or principal home,

“home sharing” means a short-term let consisting of the entering into of an agreement for the use, while the host is present, of accommodation which is, or is part of, the host’s only or principal home,

“premises” means the accommodation which is the subject of an application for a short-term licence or the subject of a short-term licence,

“repairing standard” means the steps which the holder of the licence is required to take to comply with the obligations placed on the holder by Chapter 4 of Part 1 of the Housing (Scotland) Act 2006,

“secondary letting” means a short-term let consisting of the entering into of an agreement for the use of accommodation which is not, or is not part of, the licence holder’s only or principal home,

“short-term let” has the same meaning as in article 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022,

“short-term let licence” means a licence for a short-term let, and

“type of short-term let” means one of the following purposes—

- (a) secondary letting,
- (b) home letting,
- (c) home sharing, or
- (d) home letting and home sharing.

Short Term Let proposed fee Scale

Type of Application	Proposed Fee*
Short Term Let Licence (new or existing operator)	£495
Temporary Short Term Let Licence	£495
Copy of a licence	£22
Variation (making a change) to a licence	£28
Inspection of STL premises	£200

* No exemptions or reductions are proposed in respect of STLs owned/operated or hired by charities.

Service / Consultee	Activity	Time & Grade CA Customer Assistant WPO Word Processing Officer EHO Environmental Health Officer PEHO Principal EHO Supervision = line management input PO Planning Officer BSO Building Standards Officer LSO Licensing Standards Officer	Cost per Hour £	Total Cost £	
Application					overhead %
Mailroom	Receipt of application	60 mins: CA/WPO (G2)	19.08	19.08	17%
	Validation checks	5 mins: Supervision (G6)	27.25	2.27	17%
	Inputting onto system				
Contact Centre	Taking payment Answering Queries	20 mins: CA/WPO (G3)	19.25	6.42	13%
Legal Services Admin	Checking application documents including second validation process	180 mins: CA/WPO (G3)	18.91	56.73	11%
	Chasing outstanding information	30 mins: Supervision enquiries assistance (G7)	29.17	14.59	11%
	Inputting onto the system	15 mins: Solicitor checks (G9)	37.07	9.27	5%
	Dealing with enquiries Legal queries Issuing Consultation and validation				
Environmental Health	Receiving consultation	60 mins: CA/WPO (G3)	23.00	23.00	35%
	Carrying out checks including occupancy, water, legionella, fire safety, gas safety, electrical safety	120 mins: EHO (Gd 9) plus 120 mins inspection in estimated 10% of cases therefore 10% applied in each case	47.67	104.87	35%
	Responding to consultation	10 mins: Supervision PEHO (Gd 11)	60.75	10.13	35%
Planning	Receiving consultation		43.43	10.86	23%
	Carrying out checks Responding to consultation	30 mins: PO (est G9) /WPO (est G5)	25.38	6.35	23%
	Receiving consultation				

Building Standards	Carrying out checks	15 mins: BSO (est G9)/WPO est G3)	42.02	5.25	19%
	Responding to consultation		20.27	2.53	19%
Licensing Standards	Receiving consultation	15 mins: LSO (G7)	27.59	6.90	5%
	Carrying out checks Responding to consultation				
Legal Services	Chasing outstanding information	120 mins: CA/WPO (G3)	18.91	37.82	11%
	Receiving consultation responses	10 mins: Supervisor (G7)	29.17	4.86	11%
	Inputting onto system	15 mins: Solicitor (Gd 9)	37.07	9.27	5%
	Carrying out checks	10 mins: Senior Solicitor (Gd 11)	47.25	7.88	5%
	Solicitor consideration of legal issues	10 mins: Supervision by Legal Services Manager (Gd)	59.31	9.89	5%
Legal Services	Decision under delegated powers	30 mins: CA/WPO (G3)	18.91	9.46	11%
	Issuing licence	5 mins: Supervisor (G7)	29.17	2.43	11%
		10 mins: Solicitor (Gd 9)	37.07	6.18	5%
Legal Services	Reference to Licensing Committee (ALL EST 10%)	1 hour: CA/WPO (G3)	18.91	1.89	11%
	Drafting Report	10 mins: Supervisor (G7)	29.17	0.49	11%
	Issuing citation notices	120 mins: Solicitor (Gd 9)	37.07	7.41	5%
	Issuing papers to committee services	15 mins: Senior Solicitor (Gd 11)	47.25	1.18	5%
	Distributing papers	1 hour: Committee Services (G8)	35.40	3.54	19%
	Dealing with enquiries	This process is estimated to be required in 10% of cases. Therefore 10% applied to each case			
	Preparation and attendance at hearing				
	Issuing decision notice Issuing licence				
Total Application Fee				380.55	

INDIRECT OVERHEADS (ESTIMATED % ONCOST BROADLY BASED ON PREV FEE REVIEW AND ALLOWING FOR COSTS ALREADY FACTORED IN ABOVE/NEW COSTS)

uplift 30%	114.17
TOTAL	494.72

Inspection					
	Receiving instructions and typing / providing report	60 mins: CA/WPO (G3)	23.00	23.00	35%
	Attendance at site	120 mins: EHO (Gd 9)	47.67	95.34	35%

Environmental Health	Carrying out checks including occupancy, water, legionella, fire safety, gas safety, electrical safety	60 mins EHO (Gd 9)	47.67	47.67	35%
	Drafting and providing report				
Legal Services	Receiving inspection report	1 hour: CA/WPO (G3)	18.91	18.91	11%
	Inputting onto system	10 mins: Supervisor (G7)	29.17	4.86	11%
	Carrying out checks	10 mins: Solicitor (Gd 9)	37.07	6.18	5%
	Solicitor consideration of legal issues	5 mins: Senior Solicitor (Gd 11)	47.25	3.94	5%
			199.90		

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SHORT-TERM LETS LICENSING SCHEME PROCESS

Index

1. Legislation
2. Application
3. Display Notice
4. Return Certificate of Compliance
5. Consultation
6. Objections and Representations
7. Determination of an application
8. Licensing Committee Hearings
9. Application Decision
10. Timescales for Determination of an application
11. Notification of Determination
12. Right of Appeal
13. Complaints
14. Enforcement

1. Legislation

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

2. Application

- 2.1 All applicants must complete either an online or paper short-term let licence application form. The application together with supporting documents should either be submitted online by emailing licensing@moray.gov.uk or by posting to Moray Council Licensing Team, Council Offices, High Street, Elgin, IV30 1BX.
- 2.2 Applicants should pay the application fee online, by telephone or by cheque made payable to The Moray Council. Full payment of the application fee should

be made at the same time the completed application is submitted to Moray Council.

- 2.3 An application will not be processed until all necessary information has been provided and the fee paid. Unless and until a valid application is received the application will not be considered to have been made at all.
- 2.4 A unique licence number will be issued to existing hosts who apply before 1 April 2023 as soon as is reasonably practicable after a valid application has been made. This is known as a provisional licence number. Provisional licence numbers will not be issued to new hosts from 1 October 2022 or anyone applying after 1 April 2023 as they cannot operate whilst their application is being determined.

3. Display Notice

- 3.1 In accordance with the Act, all applicants who apply for a short-term let licence must display a notice for a period of 21 days beginning with the date on which a valid application was submitted to the licensing authority. The notice must be displayed at or near the short-term let premises so it can be conveniently read by the public.

4. Return Certificate of Compliance

- 4.1 Applicants are required to certify compliance that they have displayed the site notice as soon as possible after the 21 days has expired. Applicants can use the template provided with the application form for this purpose.

5. Consultation

- 5.1 A copy of the application will be sent to the following consultees:-

- Police Scotland
- The Scottish Fire and Rescue Service
- The Council's Environmental Health Service
- The Council's Building Standards Service
- The Council's Planning Service

6. Objections and Representations

- 6.1 It is open to any member of the public to submit an objection or representation in relation to a short-term let licence application.
- 6.2 Moray Council will consider any objection or representation that is:-
- in writing (email is sufficient),

- specifies the grounds of the objection or the nature of the representation,
 - specifies the name and address of the person making it,
 - signed by the person making the objection or representation, and
 - received by Moray Council within 28 days from when the notice of application is displayed.
- 6.3 Moray Council will not consider any anonymous objections or representations. Late objections or representations may be considered if Moray Council is satisfied that there is sufficient reason as to why it was not made in the time required. Any objection or representation should clearly set out the reasons for the objection/representation and why the applicant and/or the premises are not suitable.
- 6.4 The objection should be relevant to the statutory grounds that can be taken into consideration when refusing an application. These are set out in the Act as follows:-
- The applicant or anyone else detailed in the application form is not a fit and proper person to be the holder of a licence;
 - The activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused;
 - The premises is not suitable for the conduct of the activity, having regard to:-
 - The location, character or condition of the premises,
 - The nature and extent of the proposed activity,
 - The kind of persons likely to be in the premises,
 - The possibility of undue public nuisance, public order or public safety,
 - Where there is other good reason.
- 6.5 A copy of any competent objection or representation received will be provided to the applicant and will include the name and address of the person making the objection or representation.

7. Determination of an application

- 7.1 Moray Council will consider the evidence that the applicant is compliant with the statutory mandatory conditions, that the people named on the application are fit and proper persons to be involved in short-term letting as well as any competent objections.
- 7.2 All those named on the application form is subject to the fit and proper person test. Consideration will be given to a wide range of information including relevant criminal convictions, other relevant information provided by Police Scotland, any previous disqualifications from being a private landlord, previous revocations of a Houses in Multiple Occupation Licence (“HMO”) and providing false or misleading information in the application form.

- 7.3 If there are no objections or adverse representations to a short-term let licence application, the application will be determined under delegated powers by the Head of Governance, Strategy and Performance Service.
- 7.4 If a competent objection or adverse representation is submitted in relation to the short-term let licence application, the application will be subject to a hearing at a meeting of Moray Council Licensing Committee.

8. Licensing Committee Hearings

- 8.1 The person submitting the objection or representation will be invited to attend the meeting of Moray Council's Licensing Committee and speak to their objection/representation. At least 14 days notice of any scheduled hearing date will be given. Applications are heard in public unless required to be taken privately on the grounds of disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.
- 8.2 The applicant and/or a representative on their behalf will also be invited to attend the meeting and given the opportunity to respond to any objection or representation and state why their application should be granted.
- 8.3 The Licensing Committee will be able to ask questions of all parties and will decide whether to grant or refuse the application.

9. Application Decision

- 9.1 Moray Council must grant an application unless there are grounds to refuse it.
- 9.2 The grounds for refusing a short-term let application are as follows:-
- anybody named on the application is disqualified from having a short-term let licence;
 - anybody named on the 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—
 - the location, character or condition of the premises;
 - the nature and extent of the proposed activity;
 - the kind of persons likely to be in the premises;
 - the possibility of undue public nuisance; or
 - 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).
- the applicant cannot demonstrate, or secure, compliance of the mandatory licence conditions
- the applicant cannot secure compliance with any other conditions Moray Council seek to apply in respect of the application.

10. Timescales for Determination of application

- 10.1 Existing hosts who make an application before 1 April 2023 can continue operating whilst their application is being determined. Moray Council has 12 months to determine these applications beginning with the date a valid application was made. This extension to the time limit for determining an initial application is designed to assist Moray Council in managing the volume of applications received.
- 10.2 In all other cases, Moray Council has 9 months from the date a valid application is made to consider and ultimately determine each application for short-term lets.
- 10.3 If Moray Council fails to determine an application within the timescale set out above, the short-term let licence will be deemed to have been granted unless Moray Council is given an extension by the Court. If a short-term let licence is deemed to have been granted it is valid for the period of one year. The mandatory conditions that apply to all short-term lets would also apply to the deemed grant of a licence.
- 10.4 If Moray Council refuses an application for a short-term let, the applicant cannot reapply for a licence within one year of that decision unless there has been a material change in their circumstances since then.

11. Notification of Determination

Initial validation stage

- 11.1 When an application for a short-term let licence is made to Moray Council, an initial validation will be carried out by the Council's Customer Service Team.
- 11.2 If the applicant does not meet the initial validation criteria above, an acknowledgment letter will be sent giving the applicant a period of 14 days from the date of the letter in which to provide the necessary information/pay the licence fee. If the applicant does not do so, the application and any supporting documents will be returned to the applicant having not been considered by Moray Council.

- 11.3 If a fully completed application form, checklist, and all supporting documents indicated as submitted on the checklist are provided together with full payment of the licence fee, the application will automatically move to the second validation stage.

Second validation stage

- 11.4 The Licensing Team administrative staff will carry out further validation checks. If the applicant has submitted a valid application, they will be notified in writing that a valid application has been received by Moray Council and advised to display the statutory Public Notice, at or near the premises. The application will still be subject to further administrative checks during the consideration process however the statutory period for consultation will start from the date of the valid application acknowledgement letter.
- 11.5 If the applicant needs to submit further information before their application can be treated as valid, they will be notified, in writing, of what information needs to be provided/action taken and they will be given a period of 14 days to do so. If the applicant does not do so, the application and any supporting documents will be returned to the applicant having not been considered by Moray Council.

Consideration

- 11.6 Once a valid application has been received, the application will move to the consideration phase which involves consultation. During the consideration stage of a short-term let application, if an inspection of the premises is deemed necessary, the applicant will be informed in writing and required to pay the inspection fee.

Decision

- 11.7 If the application is determined under delegated powers by the Head of Governance, Strategy and Performance Service, the applicant will be notified in writing and issued their short-term let licence.
- 11.8 If the application is subject to a hearing at a meeting of Moray Council Licensing Committee, the applicant will be notified in writing of the Licensing Committee's decision within 7 days of the hearing date which determined the application and advised of the right to seek written reasons and of the right to appeal to the Sheriff Court.

12. Right of Appeal

- 12.1 An applicant and any person(s) making an objection or representation can appeal Moray Council's decision by lodging a summary application with the relevant Sheriff Court. Any appeal must be lodged within 28 days of the date of Moray Council's decision.
- 12.2 The Sheriff Court will consider whether Moray Council, in arriving at their decision;

- erred in law,
 - based their decision on any incorrect material fact,
 - acted contrary to natural justice; or
 - exercised their discretion in an unreasonable manner.
- 12.3 If an appeal of the Council's decision is upheld, the Sheriff may ask Moray Council to reconsider its decision or change Moray Council's decision.

13. Complaints

- 13.1 Complaints about hosts and operators will be considered under powers in the Act. Moray Council will try to resolve a complaint through engagement with the host or operator in the first instance. If this is not successful then Moray Council will use the procedures under the Act.
- 13.2 Complaints from guests should be raised with their host or operator, letting agency or platform in the first instance. If they remain unsatisfied or the issue is sufficiently grave they may contact Moray Council.
- 13.3 Complaints about suspected unlicensed hosts/operators should be directed to Police Scotland.
- 13.4 As set out in Moray Council's Statement of Licensing Policy for short-term lets, Moray Council can consider matters relating to the suitability of the licence holder, threats to public safety or public order or whether a condition of the licence has been contravened. These issues would include a host/operator exceeding the number of people staying at the premises, serious disturbance or antisocial behaviour or concerns about the maintenance and safety of the premises. Complaints can be directed to licensing@moray.gov.uk. Complaints will be acknowledged within five working days.
- 13.5 Moray Council will not consider complaints in relation to the quality of a guest's stay or specific contractual matters between the guest and the host/operator as this is outside the scope of the licensing scheme.

14. Enforcement

- 14.1 It is a criminal offence to carry on an activity for which a licence is required without having a licence and without reasonable excuse.
- 14.2 From 1 October 2022, new hosts/operators cannot accept bookings and cannot operate until they have obtained a short-term let licence in respect of the premises. This also applies to existing operators who establish new short-term let accommodation after 1 October 2022.
- 14.3 Existing hosts or operators that have been trading on or before 30 September 2022 may continue to accept bookings after 1 October 2022 but only if they

have applied for a short-term let licence by 1 April 2023 and once it has been determined, the licence is granted.

- 14.4 By 1 July 2024, all hosts and operators cannot operate unless they have been granted a short-term let licence. This means, existing hosts should not be trading unless they have been granted a short-term let licence.
- 14.5 A public register of licensed short-term lets will be maintained by Moray Council which allows members of the public/guests/authorities to check the licensing status of a premises being used as a short-term let. Moray Council will update this on a quarterly basis.
- 14.6 Enforcement action may be required by Moray Council. The Act sets out several options for enforcement action if justified.
- 14.7 Moray Council may serve an enforcement notice.

An enforcement notice must specify:-

- The matters constituting the breach or alleged breach,
 - The action to be taken by the licence holder which Moray Council considers necessary for the purposes of rectifying or, as the case may be, preventing the breach,
 - The date by which the action must be taken,
 - A condition of enforcement notice is deemed to be a condition of a licence.
- 14.8 Moray Council may serve an enforcement notice on a licence holder requiring the rectification or prevention of any breach of a condition of a licence other than the breach of a condition of an enforcement notice.
- 14.9 Moray Council may, at any time, whether or not upon an application made to it by the holder of a licence, vary, suspend or revoke a licence in accordance with the Act. Moray Council may do this without serving an enforcement notice if the seriousness of the breach justifies urgent action.



THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS) ORDER 2022

Licence Holder:

Premises:

Licence Type:

Maximum Number of Permitted Occupants in premises:

Licence Number:

Valid Until:

The Moray Council hereby authorises the Licence Holder to carry out the activities specified above, subject to compliance with the provisions of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, the Civic Government (Scotland) Act 1982 and in accordance with the conditions appended hereto.

This licence is valid from dd month yyyy until dd month yyyy

Date dd month yyyy

**Head of Governance, Strategy and Performance
(Monitoring Officer)**

The Moray Council
Council Offices
High Street
Elgin
IV30 1BX



THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS) ORDER 2022

LICENCE FOR SHORT-TERM LET [INSERT LICENCE TYPE]

CONDITIONS

1. The Licence holder must surrender the Licence if and when called upon to do so by the Licensing Authority for the purpose of alteration in accordance with any decision of the Licensing Authority.
2. The Licence holder shall notify the Licensing Authority in writing within 30 days of any change from the information provided in the original licence application.
3. Only the named Licence holder can carry out the day to day management of the short-term let of the premises detailed above.
4. The Licence holder may only offer the type of short-term let for which the licence has been granted.

Fire Safety

5. The Licence holder must ensure the premises detailed above has satisfactory equipment installed for detecting, and for giving warning of -
 - (a) fire or suspected fire, and
 - (b) the presence of carbon monoxide in a concentration that is hazardous to health.
6. The Licence holder must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988.

Gas Safety

7. The Licence holder must arrange for an annual gas safety inspection of all gas pipes, flues and appliances in the premises.
8. If, after an annual gas safety inspection of all gas, pipes, flues and appliances in the premises, any appliance does not meet the required safety standard, the holder of the licence must not allow a short-term let of the premises until the works necessary to bring the appliance to the required safety standard have been carried out.

Electrical Safety

9. Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the Licence holder 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.
10. The Licence holder must have regard to guidance issued by Scottish Ministers under section 19B(4) of the Housing (Scotland) Act 2006 when determining who is competent for the purposes of condition 9 above.

Water Safety

11. The Licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.
12. The Licence holder must assess the risk from exposure to legionella within the premises, whether or not the premises are served by a private water supply.

Safety & Repair Standards

13. The Licence holder must take all reasonable steps to ensure the premises are safe for residential use.
14. Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the Licence holder must ensure that the premises meet the repairing standard.

Maximum Occupancy

15. The Licence holder must ensure that the number of guests residing on the premises does not exceed the number specified in the licence. Children under the age of 10 years do not count towards the permitted maximum occupancy.

Information to be Displayed

16. The Licence holder 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.

Planning Permission

17. Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”), the Licence holder must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either –
- (a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or
 - (b) planning permission under the 1997 Act is in force.

Listings

18. The Licence holder must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises includes –
- (a) the licence number, and
 - (b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008.

19. The Licence holder must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises is consistent with the terms of the short-term let licence.

Insurance

20. The Licence holder must ensure that there is in place for the premises valid buildings insurance for the duration of the licence.
21. The Licence holder must ensure that there is in place for the premises valid public liability insurance for not less than £5 million for the duration of each short-term let agreement.

Payment of Fees

22. The Licence holder must pay any fees due to the licensing authority in respect of the licence on demand.

False or Misleading Information

23. The Licence holder must not provide any false or misleading information to the licensing authority.

Interpretation/Definitions

24. In these conditions, what we mean when we say:—

“Electrical Installation Condition Report” means a report containing the following information—

- (a) the date on which the inspection was carried out,
- (b) the address of the premises inspected,
- (c) the name, address and relevant qualifications of the person who carried out the inspection,
- (d) a description, and the location, of each installation, fixture, fitting and appliance inspected,
- (e) any defect identified,
- (f) any action taken to remedy a defect,

“Energy Performance Certificate” means a certificate which complies with regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008,

“gas safety report” means a report containing the following information—

- (a) the date on which the appliance or flue was checked,
- (b) the address of the premises at which the appliance or flue is installed,
- (c) a description of and the location of each appliance or flue checked,
- (d) any safety defect identified,
- (e) any remedial action taken,

- (f) confirmation that the check undertaken complies with the requirements of an examination of—
- (i) the effectiveness of any flue,
 - (ii) the supply of combustion air,
 - (iii) subject to head (iv), its operating pressure or heat input or, where necessary, both,
 - (iv) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,
 - (v) its operation so as to ensure its safe functioning,
- (g) the name and signature of the individual carrying out the check, and
- (h) the registration number with which that individual, or that individual's employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998,

“licence holder” means any person to whom a short-term let licence has been granted or jointly granted,

“home letting” means a short-term let consisting of the entering into of an agreement for the use, while the host is absent, of accommodation which is, or is part of, the host's only or principal home,

“home sharing” means a short-term let consisting of the entering into of an agreement for the use, while the host is present, of accommodation which is, or is part of, the host's only or principal home,

“secondary letting” means a short-term let consisting of the entering into of an agreement for the use of accommodation which is not, or is not part of, the licence holder's only or principal home,

“premises” means the accommodation which is the subject of an application for a short-term licence or the subject of a short-term licence,

“repairing standard” means the steps which the holder of the licence is required to take to comply with the obligations placed on the holder by Chapter 4 of Part 1 of the Housing (Scotland) Act 2006,

“short-term let” has the same meaning as in article 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022,

“short-term let licence” means a licence for a short-term let, and

“type of short-term let” means one of the following purposes—

- (a) secondary letting,
- (b) home letting,
- (c) home sharing, or
- (d) home letting and home sharing.



THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS) ORDER 2022

TEMPORARY LICENCE

Licence Holder:

Premises:

Licence Type:

Maximum Number of Permitted Occupants in premises:

Temporary Licence Number:

Valid Until:

The Moray Council hereby authorises the Licence Holder to carry out the activities specified above, subject to compliance with the provisions of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, the Civic Government (Scotland) Act 1982 and in accordance with the conditions appended hereto.

This licence is valid from dd month yyyy until dd month yyyy

Date dd month yyyy

Head of Governance, Strategy and Performance (Monitoring Officer)

The Moray Council
Council Offices
High Street
Elgin
IV30 1BX



THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS) ORDER 2022

LICENCE FOR SHORT-TERM LET [INSERT LICENCE TYPE]

CONDITIONS

1. The Licence holder must surrender the Licence if and when called upon to do so by the Licensing Authority for the purpose of alteration in accordance with any decision of the Licensing Authority.
2. The Licence holder shall notify the Licensing Authority in writing within 30 days of any change from the information provided in the original licence application.
3. Only the named Licence holder can carry out the day to day management of the short-term let of the premises detailed above.
4. The Licence holder may only offer the type of short-term let for which the licence has been granted.

Fire Safety

5. The Licence holder must ensure the premises detailed above has satisfactory equipment installed for detecting, and for giving warning of -
 - (a) fire or suspected fire, and
 - (b) the presence of carbon monoxide in a concentration that is hazardous to health.
6. The Licence holder must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988.

Gas Safety

7. The Licence holder must arrange for an annual gas safety inspection of all gas pipes, flues and appliances in the premises.
8. If, after an annual gas safety inspection of all gas, pipes, flues and appliances in the premises, any appliance does not meet the required safety standard, the holder of the licence must not allow a short-term let of the premises until the works necessary to bring the appliance to the required safety standard have been carried out.

Electrical Safety

9. Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the Licence holder 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.
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11. The Licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.
12. The Licence holder must assess the risk from exposure to legionella within the premises, whether or not the premises are served by a private water supply.

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13. The Licence holder must take all reasonable steps to ensure the premises are safe for residential use.
14. Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the Licence holder must ensure that the premises meet the repairing standard.

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16. The Licence holder 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.

Planning Permission

17. Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”), the Licence holder must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either –
 - (a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or
 - (b) planning permission under the 1997 Act is in force.

Listings

18. The Licence holder must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises includes –
 - (a) the licence number, and
 - (b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008.

19. The Licence holder must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises is consistent with the terms of the short-term let licence.

Insurance

20. The Licence holder must ensure that there is in place for the premises valid buildings insurance for the duration of the licence.
21. The Licence holder must ensure that there is in place for the premises valid public liability insurance for not less than £5 million for the duration of each short-term let agreement.

Payment of Fees

22. The Licence holder must pay any fees due to the licensing authority in respect of the licence on demand.

False or Misleading Information

23. The Licence holder must not provide any false or misleading information to the licensing authority.

Interpretation/Definitions

24. In these conditions, what we mean when we say:—

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- (a) the date on which the inspection was carried out,
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- (c) the name, address and relevant qualifications of the person who carried out the inspection,
- (d) a description, and the location, of each installation, fixture, fitting and appliance inspected,
- (e) any defect identified,
- (f) any action taken to remedy a defect,

“Energy Performance Certificate” means a certificate which complies with regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008,

“gas safety report” means a report containing the following information—

- (a) the date on which the appliance or flue was checked,
- (b) the address of the premises at which the appliance or flue is installed,
- (c) a description of and the location of each appliance or flue checked,
- (d) any safety defect identified,

- (e) any remedial action taken,
- (f) confirmation that the check undertaken complies with the requirements of an examination of—
 - (i) the effectiveness of any flue,
 - (ii) the supply of combustion air,
 - (iii) subject to head (iv), its operating pressure or heat input or, where necessary, both,
 - (iv) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,
 - (v) its operation so as to ensure its safe functioning,
- (g) the name and signature of the individual carrying out the check, and
- (h) the registration number with which that individual, or that individual's employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998,

“licence holder” means any person to whom a short-term let licence has been granted or jointly granted,

“home letting” means a short-term let consisting of the entering into of an agreement for the use, while the host is absent, of accommodation which is, or is part of, the host's only or principal home,

“home sharing” means a short-term let consisting of the entering into of an agreement for the use, while the host is present, of accommodation which is, or is part of, the host's only or principal home,

“secondary letting” means a short-term let consisting of the entering into of an agreement for the use of accommodation which is not, or is not part of, the licence holder's only or principal home,

“premises” means the accommodation which is the subject of an application for a short-term licence or the subject of a short-term licence,

“repairing standard” means the steps which the holder of the licence is required to take to comply with the obligations placed on the holder by Chapter 4 of Part 1 of the Housing (Scotland) Act 2006,

“short-term let” has the same meaning as in article 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022,

“short-term let licence” means a licence for a short-term let, and

“type of short-term let” means one of the following purposes—

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STATEMENT OF LICENSING POLICY FOR SHORT-TERM LETS

Index

1. Introduction
2. Licence Types
3. Temporary Exemptions
4. Temporary Licences
5. Fees
6. Mandatory Licence Conditions
7. Maximum Occupancy
8. Planning Permission
9. Fit and Proper Person Test
10. Additional Licence Conditions
11. Consultation
12. Objections/Representations
13. Determination of Licence Application
14. Refusal of a Licence
15. Right of Appeal
16. Licence Duration and Renewal
17. Compliance and Enforcement
18. Variation, Suspension and Revocation of a Licence
19. Complaints
20. Equalities
21. Data Protection

Appendix A – Definitions

Appendix B – Schedule of fees applicable to short-term let licence scheme

Appendix C – Mandatory Licence Conditions

1. Introduction

- 1.1 The Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022 (“the Order”) introduced new provisions within the Civic Government (Scotland) Act 1982 (“the Act”) requiring all short-term let properties in Scotland to be licenced by the licensing authority in whose area the premises are situated.

- 1.2 The aim of the licensing scheme in Moray is to ensure all short-term lets in the Moray area are safe, to facilitate Moray Council in knowing and understanding what is happening in the Moray area and to assist with handling complaints and effectively address issues faced by neighbours. A list of definitions to be read alongside this policy is provided in Appendix A.
- 1.3 Moray Council Licensing Committee agreed a light touch approach to the licensing of short-term lets in Moray. This means, in Moray, applicants are responsible for self-certification. Premises will only be inspected where it is considered necessary to do so by applying a proportionate risk-based approach when considering applications for short-term lets.

2. Licence Types

- 2.1 A separate licence is required for each short-term let premises situated in Moray. A single licence may be issued in respect of unconventional accommodation (i.e. not a dwellinghouse) where there is more than one separately bookable property on the site for example, 15 yurts within a single field.
- 2.2 There are four types of short-term let licence;
1. Home Sharing
 2. Home Letting
 3. Secondary Letting
 4. Home Sharing and Home Letting

3. Temporary Exemptions

- 3.1 Moray Council will not be granting temporary exemptions under any circumstances. This position will be reviewed on or before 1 October 2025. In preparing and reviewing a policy statement regarding temporary exemptions, Moray Council will consult with such persons as it considers appropriate.

4. Temporary Licences

- 4.1 Moray Council may grant a temporary licence for a duration of up to six weeks. A temporary licence cannot be renewed. If a host or operator applies for a full licence during the period of a temporary licence, the temporary licence may be extended until their full licence is finally determined (this includes an appeal if one has been lodged within 28 days of the decision).
- 4.2 An application for a temporary licence is subject to the legislative mandatory conditions which apply to all licences and consultation as set out below. In accordance with the legislation, applicants do not need to complete and display the Public Notice in Appendix 1 of the application form when applying for a temporary licence. Applicants do not need to complete and return the

Confirmation of Display Notice in Appendix 1 of the application form when applying for a temporary licence.

- 4.3 The issue of a temporary licence to a host or operator who is also making a licence application does not extend the time for the Council to determine the licence application.
- 4.4 A temporary licence number will be issued to accompany a temporary licence.

5. Fees

- 5.1 Moray Council has determined the short-term let application fee based on recovery of the cost of establishing and running the short-term let licensing scheme. Moray Council has minimised costs by adopting a proportionate, risk-based approach in application checks and verification.
- 5.2 Processing requirements are similar for all application types therefore a sliding scale is not considered justifiable. The short-term let licence fee will be kept under review. A schedule setting out all Council fees relevant to the short-term let licence scheme is provided in Appendix B.
- 5.3 If required, the Council's Environmental Health Service will undertake any on-site compliance checks required for applications, taking a proportionate and risk-based approach. The need for inspection may be minimised if the supporting documents as part of the application form are sufficient to:
 - Verify compliance with the mandatory licence conditions; and
 - To determine the maximum occupancy number.
- 5.4 A physical inspection of the premises may be necessary in circumstances where concerns are raised during the consultation part of the application process for example, by Police Scotland, the Scottish Fire and Rescue Service or by any of the Council Service consultees. During inspections, applicants may be asked to exhibit documentation to evidence compliance with the mandatory licence conditions. The fee for a necessary inspection must be met by the applicant.
- 5.5 Generally fees are not refundable. Whether or not an application is granted, Moray Council will incur significant costs in processing the application.
- 5.6 If Moray Council refuses to consider an application because the applicant needs to obtain planning permission, the Council will not refund the application fee paid. If an application is resubmitted within 28 days of planning permission subsequently being granted, Moray Council will not charge a further application fee.
- 5.7 There will be no exemptions or reductions to the fee for a short-term let licence given the fee is based on recovery of the cost of establishing and running the short-term let licensing scheme.

- 5.8 A fee may be charged for an inspection following a complaint, where it is found that there are compliance issues, whether or not those are the issues that were the subject of the complaint.
- 5.9 Where a fee is charged for such a visit, the Council's Environmental Health Service will produce a report of its findings to the host or operator within 28 days of the inspection. Where a report is not provided within 28 days of the inspection, the Council will refund the inspection fee charged to the licence holder.

6. Mandatory Licence Conditions

- 6.1 The licensing scheme includes mandatory safety requirements which apply to every type of short-term let in Moray. These are set out in the Order and are provided at Appendix C.

7. Maximum Occupancy

- 7.1 When determining the maximum occupancy permitted for a short-term licence Moray Council will consider the following factors in addition to existing legislative requirements;
- a) the number requested on the application form
 - b) the maximum number that can be accommodated safely (broken down to the number of adults and the number of children) at the premises
 - c) the maximum number that can be accommodated within tolerable noise and nuisance standards for neighbours
 - d) comments from any consultee
- 7.2 Moray Council will not count children under 10 years of age in the maximum occupancy permitted for a short-term let licence. The age limit of under 10 years is in line with the reference to children in the context of housing within the Housing (Scotland) Act 1987. Children aged 10 and above will count towards the maximum occupancy.

8. Planning Permission

- 8.1 Applicants are required to check whether they require planning permission (under planning legislation) for the premises being used for short-term let before submitting an application for a short-term let licence. If planning permission is required, applicants should obtain this before submitting an application for a short-term let licence. The Council's Licensing Service will be notified by the Council's Planning Service if planning permission has been refused in respect of premises being used for short-term let. Any application for a short-term let licence contingent on planning permission will then be refused, varied or revoked as appropriate.

- 8.2 If an applicant requires planning permission and does not have it, Moray Council will refuse to consider an application for a short-term let licence. Moray Council has the period of twenty-one days beginning from receipt of a valid application to decide to refuse to consider the application on this ground.

9. Fit and Proper Person Test

- 9.1 Moray Council will determine whether an applicant is a fit and proper person to be the holder of a licence for short-term lets in Moray. Every person named on a short-term let licence application form will be subject to the fit and proper person test. In deciding this, Moray Council will take account of the following factors:-

- any relevant convictions and other relevant information obtained from Police Scotland.
- disqualification from being a private landlord or having had a letting agent or property factor registration revoked now or in the past.
- having had a licence for short-term lets or Houses in Multiple Occupation (HMO) revoked by any licensing authority.
- Having had an application for short-term lets licence refused by any licensing authority; and
- Providing false or misleading information in an application for a short-term lets licence, HMO licence or application to be a private landlord.

10. Additional Licence Conditions

- 10.1 As part of the light touch approach to the licensing of short-term lets in Moray, the Council will not be imposing any additional conditions to short-term let licences. This position will be kept under review on a regular basis therefore may be subject to change. Should the Council choose to impose additional conditions to short-term let licences, the conditions will be published on the Council's website. Before choosing to impose additional conditions, the Council must be satisfied that;

- the matter is not already covered by the Act, the Order or mandatory conditions,
- the matter is not already unlawful and enforceable,
- the matter is sufficiently serious to merit additional conditions, rather than a verbal warning, letter or memo and,
- the matter is not a breach of an existing condition.

11. Consultations

- 11.1 Every licence application will require consultation with Police Scotland and the Scottish Fire and Rescue Service. In addition, consultation will be carried out with the Council's Environmental Health, Planning and Building Standards Services.

12. Objections/Representations

- 12.1 It is open to any member of the public to submit an objection or representation in relation to a short-term let licence application. Moray Council will consider any objection or representation that is:-
- in writing (email is sufficient),
 - specifies the grounds of the objection or the nature of the representation,
 - specifies the name and address of the person making it,
 - signed by the person making the objection or representation, and
 - received by Moray Council within 28 days from when the notice of application is displayed.
- 12.2 Moray Council will not consider any anonymous objections or representations. Late objections or representations may be considered if Moray Council is satisfied that there is sufficient reason as to why it was not made in the time required. Any objection or representation should clearly set out the reasons for the objection/representation and why the applicant and/or the premises are not suitable.
- 12.3 The objection should be relevant to the statutory grounds that can be taken into consideration when refusing an application. These are set out in the Act as follows:-
- The applicant or anyone else detailed in the application form is not a fit and proper person to be the holder of a licence,
 - The activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused;
 - The premises is not suitable for the conduct of the activity, having regard to:-
 - The location, character or condition of the premises.
 - The nature and extent of the proposed activity.
 - The kind of persons likely to be in the premises.
 - The possibility of undue public nuisance, public order or public safety.
 - Where there is other good reason.
- 12.4 Competent grounds for objection to an 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.

- 12.5 Invalid grounds for objection could include not liking the applicant or not liking short-term lets in general.
- 12.6 A copy of any relevant objection or representation received will be provided to the application and will include the name and address of the person making the objection or representation.

13. Determination of an Application

- 13.1 Moray Council will determine applications from existing hosts who make an application before 1 April 2023 within 12 months. The twelve month period begins on the date a valid application was made. In all other cases, Moray Council will determine applications within nine months beginning on the date a valid application was made.
- 13.2 If Moray Council fails to determine an application within the above timescales, a short-term let licence will be deemed to have been granted and will be valid for the period of one year unless the Council has been granted an extension by the Court.
- 13.3 If there are no competent objections or adverse representations to a short-term let licence application, the application will be determined under delegated powers by the Head of Governance, Strategy and Performance Service.
- 13.4 If a competent objection or adverse representation is submitted in relation to a short-term let licence application, the application will be subject to a hearing at a meeting of Moray Council Licensing Committee.
- 13.5 The person submitting the objection or representation will be invited to attend the meeting of Moray Council's Licensing Committee and speak to their objection/representation. At least 14 days notice of any scheduled hearing date will be given. Applications are heard in public unless required to be taken privately on the grounds of disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.
- 13.6 The applicant and/or a representative on their behalf will also be invited to attend the meeting and given the opportunity to respond to any objection or representation and state why their application should be granted. The Licensing Committee will be able to ask questions of all parties and will decide whether to grant or refuse the application.

14. Refusal of a Licence

- 14.1 Moray Council must grant an application unless there are grounds to refuse it. The grounds for refusing a short-term let licence application are as follows:-

- anybody named on the application is disqualified from having a short-term let licence;
- anybody named on the 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—
 - the location, character or condition of the premises;
 - the nature and extent of the proposed activity;
 - the kind of persons likely to be in the premises;
 - the possibility of undue public nuisance; or
 - 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).
- the applicant cannot demonstrate, or secure, compliance of the mandatory licence conditions.
- the applicant cannot secure compliance with any other conditions Moray Council seek to apply in respect of an application.

14.2 If an application for a short-term let licence is refused, an applicant cannot reapply for a licence within one year of that decision, unless there has been a material change. Applicants who wish to reapply following a material change should provide a covering letter setting out the material changes that have occurred together with a new application and supporting documents.

15. Right of Appeal

- 15.1 An applicant and any person(s) making an objection or representation can appeal Moray Council's decision by lodging a summary application with the relevant Sheriff Court. Any appeal must be lodged within 28 days of the date of Moray Council's decision.
- 15.2 The Sheriff Court will consider whether Moray Council, in arriving at their decision;
- erred in law
 - based their decision on any incorrect material fact
 - acted contrary to natural justice; or
 - exercised their discretion in an unreasonable manner
- 15.3 If an appeal of the Council's decision is upheld, the Sheriff may ask Moray Council to reconsider its decision or change Moray Council's decision.

16. Licence Duration and Renewal

- 16.1 The duration of the licence applies from the date on which the licence comes into force. This will be specified on the licence together with the expiry date of the licence. Moray Council will grant or renew all short-term let licence types for a period of three years.
- 16.2 When an application is made to renew a licence timeously, the existing licence will continue in effect until such time as a decision is made on the renewal application.
- 16.3 A licence shall have effect for a period of three years from the date when it comes into force. Moray Council will consider each application on its own merits with regard to duration and renewal and may grant a licence for such shorter period as determined appropriate in the particular circumstances.

17. Compliance and Enforcement

- 17.1 Licence holders must ensure that they comply with all the mandatory and any additional conditions on their licence. It is a criminal offence to fail to comply with a licence condition. It is also a criminal offence for a licence holder to fail to notify Moray Council of a material change in circumstances.
- 17.2 Moray Council will take a risk based approach to ensuring compliance, including allowing self-certification where appropriate and only using inspections where there are legal grounds to do so. Moray Council will determine the appropriate balance of:-
- Self-declaration from hosts and operators
 - Checking relevant documentation
 - Allowing for third party accreditation; and
 - Visits to premises by licensing authority and other local authority officials.
- 17.3 Factors that Moray Council may consider when determining whether to carry out an inspection of a particular premises may include:-
- Third party accreditation awarded to the premises e.g. Visit Scotland or Quality in Tourism;
 - Feedback from Police Scotland and the Scottish Fire and Rescue Service as well as other Services within Moray Council who may have their own views, suggestions or requirements around risk assessment and prioritisation;
 - Peculiarities of the operation (e.g. unconventional accommodation);
 - Pattern of complaints associated with the host, operator or premises;
 - Intelligence from other inspections (which may indicate a higher incidence of issue or non-compliance with hosts or operators or premises of that type or in that area); and
 - Reputational evidence (where available) from guest reviews and internet profile.

- 17.4 There is no specific liability on Moray Council in terms of a “failure to inspect”; Moray Council’s duty to consider an application and grant a licence, and thereafter to ensure adherence with a licence’s conditions, remain in line with the Act provisions and the current licensing framework.
- 17.5 If a letting agency or platform has concerns about breaches of licence conditions (e.g. bookings being taken for numbers of guests that exceed the maximum occupancy) in respect of premises situated in Moray, they are expected to report these to the Council.
- 17.6 Moray Council can take the following enforcement action in terms of the Order and the Act;
- Additional licence conditions.
 - Enforcement notices.
 - Variation, suspension or revocation of the licence.
 - Prepare a report for Police Scotland in respect of offences under the Act.

18. Variation, Suspension and Revocation of a Licence

- 18.1 Moray Council may, at any time, whether or not upon an application made to it by the holder of a licence, vary, suspend or revoke a licence in accordance with the Act. Moray Council may do this without serving an enforcement notice if the seriousness of the breach justifies urgent action.
- 18.2 Moray Council may vary the terms of a licence on any grounds it thinks fit at any time.
- 18.3 Moray Council may order the suspension or revocation of a licence if in its opinion –
- Licence holder is no longer a fit and proper person to hold the licence.
 - The licence holder is managing the property on behalf of someone who would have been refused the grant or renewal of the licence.
 - The short-term let is causing or is likely to cause undue public nuisance or a threat to public order or public safety; or
 - A condition of the licence has been contravened.
- 18.4 Where Moray Council revokes a licence, its holder shall be disqualified from holding or obtaining a licence in the area of the licensing authority which revoked the licence for a period of one year from the date of revocation, unless the revocation has been reversed on appeal.

19. Complaints

- 19.1 Complaints from guests should be raised with their host or operator, letting agency or platform in the first instance. If they remain unsatisfied or the issue is sufficiently grave they may contact Moray Council.

- 19.2 Complaints about hosts and operators will be considered under powers in the Act (e.g from neighbours). Moray Council will try to resolve a complaint through engagement with the host or operator in the first instance. If this is not successful, then Moray Council will use the procedures under the Act.
- 19.3 Moray Council can consider matters relating to the suitability of the licence holder, threats to public safety or public order or whether a condition of the licence has been contravened. These issues would include a host/operator exceeding the number of people staying at the premises, serious disturbance or antisocial behaviour or concerns about the maintenance and safety of the premises. Complaints can be directed to licensing@moray.gov.uk. Complaints will be acknowledged within five working days.
- 19.4 If a letting agency or platform has concerns about a breach of licence conditions for premises located in Moray (e.g. bookings being taken for numbers of guests that exceed the maximum occupancy), they are expected to report these to Moray Council.
- 19.5 Complaints about suspected unlicensed hosts/operators should be directed to Police Scotland.
- 19.6 Moray Council will not consider complaints in relation to the quality of a guest's stay or specific contractual matters between the guest and the host/operator as this is outside the scope of the licensing scheme.

20. Equalities

- 20.1 Under the Equality Act 2010, there is a public sector equality duty on Moray Council to try and eliminate discrimination and promote equality and good relations across a range of protected characteristics.
- 20.2 The Scottish Government consultation of 2020 included an Equalities Impact Assessment. A copy of the Equalities Impact Assessment can be viewed [here](#). The Equalities Impact Assessment concluded that the introduction of a short-term let licensing scheme does not give rise to any equality issues therefore the Council has concluded Moray's short-term let licensing scheme does not give rise to any equality issues.

21. Data Protection

- 21.1 All personal data in connection with the short-term let licence scheme will be processed in line with the following privacy notice available on the Council's website:

http://www.moray.gov.uk/moray_standard/page_90533.html

Appendix A – Definitions

Short-term let - is defined by the legislation as the use of residential accommodation provided by a host in the course of business to a guest, where all the following criteria are met –

- (a) the guest does not use the accommodation as their only or principal home,
- (b) the short-term let is entered into for commercial consideration,
- (c) the guest is not:-
 - (i) an immediate family member of the host,
 - (ii) sharing the accommodation with the host for the principal purpose of advancing the guest's education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or
 - (iii) an owner or part owner of the accommodation,
- (d) the accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host or to another member of the host's household,
- (e) the accommodation is not excluded accommodation,
- (f) the short-term let does not constitute an excluded tenancy.

Commercial consideration – this includes money and a benefit in kind (such as a provision of a service or reciprocal use of accommodation).

Guest – the means a person who occupies accommodation under a short-term let.

Host – this means a person who is the owner, tenant or person who otherwise exercises control over occupation and use of the accommodation.

Immediate family member – a guest is deemed to be an immediate family member of the host if they are:

1. Your partner (spouse, civil partner or someone you live with as if you were married to them)
2. Is you or your partner's: parent or grandparent, child or grandchild or brother or sister
3. Is the partner of one of your: parents or grandparents, children or grandchildren, or brothers or sisters

Premises – means the accommodation which is the subject of an application for a short-term let licence or the subject of a short-term let licence

Excluded premises - Certain premises are excluded (excluded accommodation) and will not need a licence. The Order specifically sets out that excluded accommodation means accommodation which is, or is part of the following:-

- (a) an aparthotel
- (b) 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 that Act,

- (c) a hotel which has planning permission granted for use as a hotel,
- (d) a hostel,
- (e) residential accommodation where personal care is provided to residents,
- (f) a hospital or nursing home,
- (g) a residential school, college or training centre,
- (h) secure residential accommodation (including a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation, or accommodation used as military barracks),
- (i) a refuge,
- (j) student accommodation,
- (k) accommodation which otherwise requires a licence for use for hire for overnight stays,
- (l) accommodation which is provided by the guest,
- (m) accommodation which is capable, without modification, of transporting guests to another location,
- (n) a bothy, or
- (o) 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.

Excluded Tenancies - You will not require a licence where certain tenancies are granted in respect of the premises e.g. private residential and social housing tenancies. The Order specifically sets out that an excluded tenancy means a tenancy which falls within any of the following definitions -

- (a) a protected tenancy (within the meaning of section 1 of the Rent (Scotland) Act 1984),
- (b) an assured tenancy (within the meaning of section 12 of the 1988 Act),
- (c) a short assured tenancy (within the meaning of section 32 of the 1988 Act),
- (d) a tenancy of a croft (within the meaning of section 3 the 1993 Act),
- (e) a tenancy of a holding situated outwith the crofting counties (within the meaning of section 61 of the 1993 Act) to which any provisions of the Small Landholders (Scotland) Acts, 1886 to 1931) applies,
- (f) a Scottish secure tenancy (within the meaning of section 11 of the 2001 Act),

- (g) a short Scottish secure tenancy (within the meaning of section 34 of the 2001 Act),
- (h) a 1991 Act tenancy (within the meaning of section 1(4) of the 2003 Act),
- (i) a limited duration tenancy (within the meaning of section 93 of the 2003 Act),
- (j) a modern limited duration tenancy (within the meaning of section 5A of the 2003 Act),
- (k) a short limited duration tenancy (within the meaning of section 4 of the 2003 Act),
- (l) a tenancy under a lease under which agricultural land is let for the purpose of its being used only for grazing or mowing during some specified period of the year (as described in section 3 of the 2003 Act),
- (m) a private residential tenancy (within the meaning of section 1 of the 2016 Act), or
- (n) a student residential tenancy.

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, e.g. whilst you are on holiday.

Home Sharing and Home Letting – means you operate short-term lets from your own home while you are living there and also for periods when you are absent.

Secondary letting – means the letting of property where you do not normally live for example, a second home.

Dwellinghouse – means an independent dwelling (with its own front door, kitchen and bathroom) such as a house, flat, cottage etc.

Unconventional accommodation – means residential accommodation that is not defined as a dwellinghouse e.g. glamping pods, yurts etc.

Applicant – means the person making the application for the licence, normally the host or operator.

Licence holder – means any one of the persons named on the licence application including, but not limited to, the host or operator.

Appendix B – Fee Schedule

Type of Application	Proposed Fee*
Short-term Let Licence (new or existing operator)	£495
Temporary Short-term Let Licence	£495
Copy of a Short-term Let licence	£22
Variation (making a change) to a Short-term Let licence	£28
Inspection of Short-term Let premises	£200

Appendix C – Mandatory Licence Conditions

The mandatory licence conditions are set out in Schedule 3 of The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022. Every applicant for a short-term let licence must meet and adhere to the statutory mandatory conditions which are:-

1. Agents

Only those named as a holder of the licence can carry out the day to day management of the short-term let of the premises.

2. Type of Licence

The holder of the licence may only offer the type of short-term let for which the licence has been granted.

3. Fire Safety

The holder of the licence must ensure the premises has satisfactory equipment installed for detecting, and for giving warning of –

- (a) fire or suspected fire, and
- (b) the presence of carbon monoxide in a concentration that is hazardous to health.

4. The holder of the licence must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988.

5. Gas Safety

Where the 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 allow a short-term let of the premises until the works necessary to bring the appliance to the required safety standard have been carried out.

6. Electrical Safety

Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the holder of the licence 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.

7. In determining who is competent, the holder of the licence must have regard to guidance issued by the Scottish Ministers under section 19B(4) of the Housing (Scotland) Act 2006.

8. Water safety: private water supplies

Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.

9. Water safety: legionella

The holder of the licence must assess the risk from exposure to legionella within the premises, whether or not the premises are served by a private water supply.

10. Safety & repair standards

- (1) The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.
- (2) Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the holder of the licence must ensure that the premises meet the repairing standard.

11. Maximum Occupancy

The licence holder must ensure that the number of guests residing on the premises does not exceed the number specified in the licence.

12. Information to be displayed

The holder of the licence 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.

13. Planning Permission

Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997 (“the 1997

Act”), the holder of the licence must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either –

- (a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or
- (b) planning permission under the 1997 Act is in force.

14. Listings

- (1) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises includes –
 - (a) the licence number, and
 - (b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008.
- (2) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises is consistent with the terms of the short-term let licence.

15. Insurance

The holder of the licence must ensure that there is in place for the premises –

- (a) valid buildings insurance for the duration of the licence, and
- (b) valid public liability insurance for the duration of each short-term let agreement.

16. Payment of fees

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

17. False or misleading information

The holder of the licence must not provide any false or misleading information to the licensing authority.

18. Interpretation

In this schedule –

“Electrical Installation Condition Report” means a report containing the following information—

- (a) the date on which the inspection was carried out,
- (b) the address of the premises inspected,
- (c) the name, address and relevant qualifications of the person who carried out the inspection,
- (d) a description, and the location, of each installation, fixture, fitting and appliance inspected,
- (e) any defect identified,
- (f) any action taken to remedy a defect,

“Energy Performance Certificate” means a certificate which complies with regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008,

“gas safety report” means a report containing the following information—
(a) the date on which the appliance or flue was checked,
(b) the address of the premises at which the appliance or flue is installed,
(c) a description of and the location of each appliance or flue checked,
(d) any safety defect identified,
(e) any remedial action taken,
(f) confirmation that the check undertaken complies with the requirements of an examination of—

(i) the effectiveness of any flue,
(ii) the supply of combustion air,
(iii) subject to head (iv), its operating pressure or heat input or, where necessary, both,
(iv) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,
(v) its operation so as to ensure its safe functioning,
(g) the name and signature of the individual carrying out the check, and
(h) the registration number with which that individual, or that individual’s employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998,

“holder of the licence” means any person to whom a short-term let licence has been granted or jointly granted,

“home letting” means a short-term let consisting of the entering into of an agreement for the use, while the host is absent, of accommodation which is, or is part of, the host’s only or principal home,

“home sharing” means a short-term let consisting of the entering into of an agreement for the use, while the host is present, of accommodation which is, or is part of, the host’s only or principal home,

“premises” means the accommodation which is the subject of an application for a short-term licence or the subject of a short-term licence,

“repairing standard” means the steps which the holder of the licence is required to take to comply with the obligations placed on the holder by Chapter 4 of Part 1 of the Housing (Scotland) Act 2006,

“secondary letting” means a short-term let consisting of the entering into of an agreement for the use of accommodation which is not, or is not part of, the licence holder’s only or principal home,

“short-term let” has the same meaning as in article 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022,

“short-term let licence” means a licence for a short-term let, and

“type of short-term let” means one of the following purposes—

- (a) secondary letting,
- (b) home letting,
- (c) home sharing, or
- (d) home letting and home sharing.

LICENSING

All matters delegated to the Head of Governance, Strategy and Performance

(17) General powers

(i) In connection with the Council's licensing functions:

Under the following legislation and/or any legislation that repeals, replaces or subsumes the same:

- Cinemas Act 1985
- Civic Government (Scotland) Act 1982 **as amended**
- Deer (Scotland) Act 1996
- Fireworks (Scotland) Regulations 2004
- The Housing (Scotland) Act 2006 Part 5 – Licensing of Houses in Multiple Occupation
- Local Government Miscellaneous Provisions Act 1982
- ~~Theatres Act 1968~~
- **The Animal Welfare (Licensing of Activities Involving Animals)(Scotland) Regulations 2021**
- Riding Establishments Act 1964
- Dangerous Wild Animals Act 1976
- Animal Boarding Establishments Act 1963
- Performing Animals (Regulation) Act 1925
- Zoo Licensing Act 1981

and in particular in respect of the following licence types:

- Cinema
- Houses of Multiple Occupation
- **Short term lets**
- Itinerant metal dealers
- Knife dealers
- Late hours catering
- Market operators
- Metal dealers
- Metal dealers exemption warrant
- Private hire drivers
- Private hire operators
- Public charitable collections
- Public entertainment
- Public processions
- Second hand dealers
- **Sex Shops**
- **Sexual Entertainment Venues**
- Street Traders
- Taxi booking offices
- Taxi drivers
- Taxi operators
- Venison dealers

- Window cleaners
- Animal welfare establishments
- Animal rehoming establishments
- Animal breeding establishments (dogs/cats/rabbits)
- Establishments for the sale of pet animals
- Riding establishments
- Animal boarding establishments
- Dangerous wild animals establishments
- Zoos
- Performing animal registrations

(ii) To grant for three years or such shorter period as determined to be necessary and, where appropriate, to renew, vary, transfer, or accept surrender of the licence/temporary licence/provisional licence/permission/dispensation subject to there being no objections or adverse representations received from any consultees and where no Member of the Council has requested that the application be decided by a Committee and where the application is one which the Officer concerned considers should be granted;

(iii) To add, vary or remove conditions that are straightforward in nature, particularly where such changes are recommended by consultees;

(iv) To grant or refuse applications for substitutions, consents to alter or permission to effect a material change in circumstances subject to there being no objections or adverse representations received from any consultees;

(v) To refuse to accept any application which does not provide the required supporting documentation, including the relevant fee;

(vi) To refuse to grant a licence where the applicant has failed to satisfy any administrative requirement necessary to the granting and issue of a licence including, but not limited to, failing to pass a driver test for a taxi driver or a vehicle test for a taxi operator (including suitability as to the vehicle) or failing to supply a photograph;

(vii) To relieve the applicant of any failure to satisfy an administrative requirement including to decide whether or not to accept applications for renewal made up to 28 days after the expiry of a licence;

(viii) To temporarily suspend licences in the interests of public order or safety, following consultation with the Chair of the Licensing Committee, whom failing the Deputy Chair, whom failing any other member of the Committee as well as the relevant statutory consultees whomsoever.

(18) In relation to taxi or private hire driver licences in addition to the general delegations above:

(a) to grant or renew those licences as appear to be uncomplicated where medical issues have arisen but where medical opinion has been received which indicates that the applicant is not unfit by reason of his or her medical condition to be a taxi or private hire driver, and to request that any such licence holder submit regular medical updates; and

(b) in the case of drivers aged over 70 years to grant or renew licences for up to three years on condition of production by the licence holder of a valid DVLA licence annually,

to receive and review DVLA licences in addition to exercising general powers in relation to licences as detailed above.

(19) In relation to animal licences:

(a) To treat a new application for an annual licence as a renewal where the applicant already holds an existing licence for the same activity.

(20) In relation to fireworks:

(a) To grant an application for dispensation in terms of the Fireworks (Scotland) Regulations 2004 providing there are no objections to the application from relevant consultees.

(21) In relation to theatres in particular and in addition to general powers detailed above:

(a) To grant Theatre Licences for a standard duration of one year, Theatre Licence renewals for a standard duration of one year and temporary Theatre Licences where there are no objections or observations to such applications;

(b) To authorise an application for a Theatre Licence as exempt from payment of licensing fees within the terms of the Theatres Act 1968 and to refer any refusal from exemption from such payment to Committee.

(Note: For the purpose of all licensing delegations the Officer may disregard objections or adverse representations where they are based on convictions (current or spent) that have previously been considered by the Committee and the relevant licence/permission/dispensation was granted notwithstanding this information)

(21) In relation to short term lets in particular and in addition to general powers detailed above:

(a) To refuse to consider any application for a licence where it appears that planning permission is required for the operator to be able to operate but the relevant permission has not been applied for or is not in place.

(b) To refuse an application for a licence where it appears that planning permission is required for the operator to be able to operate but the relevant permission has not been granted.

(c) To determine maximum occupancy for the purpose of the licence based on criteria set out in the statement of policy including feedback from consultees.

(d) The power to determine that an inspection is required whether as part of an application process or after the grant of a licence having regard to comments from consultees and/or complaints/feedback from other persons as appropriate and to demand the payment of a relevant inspection fee in accordance with the agreed fee schedule.

(22) In relation to staffing:

To appoint Licensing Standards Officer under the Licensing (Scotland) Act 2005 and Civic Government (Scotland) Act 1982, including any Orders, Regulations, Statutory Instruments or other subordinate legislation made under the Acts.

(23) In relation to LSO powers:

To exercise the functions and powers conferred by Section 7 of the Smoking, Health and Social Care (Scotland) Act 2005 and Regulations, including any Orders, Regulations, Statutory Instruments or other subordinate legislation made under this Act, to enable the performance of functions under the Gambling Act 2005.