

Short Term Lets in Scotland

Licensing Scheme

Part 1. Guidance for Hosts and Operators

June 2021

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1. Introduction

- 1.1. This guidance is intended for hosts and operators of short-term lets in Scotland. There is also supplementary guidance for licensing authorities to which you can refer for more detailed information.
- 1.2. Separate guidance has been produced in respect of planning considerations. Hosts and operators must comply with both planning and licensing law.
- 1.3. This guidance is non-statutory and should not be interpreted as offering definitive legal advice. If in doubt, you should seek your own legal advice.

Purpose of guidance

- 1.4. This guidance will help you work out whether you need to apply for a licence and, if so, how to make an application and comply with the requirements of the licensing scheme.
- 1.5. This guidance will take you through all the considerations in making a licensing application, including making sure that your property is ready. You may need to make some changes to your property or get some things checked out.
- 1.6. This guidance includes information to help you make sure you comply with your licence conditions and how to renew your licence when it expires.
- 1.7. Words with a particular meaning are highlighted in bold and explained where they first appear and the explanation is repeated in the glossary at the end of this guidance.

Purpose of the licensing scheme

- 1.8. **Short-term lets** can offer people a flexible and cheaper travel option, and have contributed positively to Scotland's tourism industry and local economies across the country. However, we know that in certain areas, particularly tourist hot spots, high numbers of short-term lets can cause problems for neighbours and make it harder for people to find homes to live in.
- 1.9. We will explain what is (and is not) a short-term let in chapter 2. **Hosts** and **operators**¹ are people or companies who provide short-term lets. It is very important to make sure that you know whether you are providing short-term lets.

¹ We use these words interchangeably. There is no difference between a host and an operator for the purpose of this guidance. In the Licensing Order and 1982 Act, they are called applicants or licence holders, as the context dictates.

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- 1.10. If you are providing short-term lets, then you must comply with the terms of the **licensing scheme**.
- 1.11. The licensing scheme is established by legislation called the **Licensing Order**², which has been approved by the Scottish Parliament.

DRAFTING NOTE: The draft guidance is written as if the Licensing Order has been approved.

- 1.12. The Scottish Government has put in place this licensing scheme to help make sure that the economic and tourism benefits from short-term lets are balanced with the needs and concerns of local communities.
- 1.13. The aims of the licensing scheme are:
- to ensure short-term lets are safe and address issues faced by neighbours; and
 - to facilitate **licensing authorities** in knowing and understanding what is happening in their area,
 - to assist with handling complaints effectively.
- 1.14. The licensing scheme will be implemented across Scotland by licensing authorities. Your licensing authority is the local authority³ in whose area your **property** is located.
- 1.15. In this guidance, property (or accommodation) means any building or structure that you are letting out for residential use or any part of the building or structure. It may be rooms in your home, a whole house or something more unusual like a yurt or a treehouse. You need a licence for each **premises** in which you let out property. Premises means the property and land on one site; normally premises have their own postal address. So, for example, two neighbouring cottages are likely to be separate premises which will each require a licence, whereas 15 yurts in one field are likely to be 15 properties on one premises, requiring one licence in total.
- 1.16. For a self-catering cottage, the property and the premises are one and the same. If you are letting out two rooms in **your own home**, the two rooms are two properties (assuming they can be let out separately) and the whole home

² Its full title is the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2021 (SSI 2021/[]).

³ Section 2 of the 1982 Act.

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is the premises. This distinction is important as some licence conditions will apply to the premises and others just to the property.

- 1.17. In this guidance, your own home means your only or principal home (the place where you normally live).
- 1.18. There are some conditions that every short-term let in Scotland will need to follow – these are called **mandatory conditions**. They are set out in the Licensing Order and licensing authorities have no choice about implementing these. Many hosts and operators will already be complying with these mandatory conditions because some of them are already meant to be happening and others are best practice now.
- 1.19. These mandatory conditions are primarily about ensuring that **guests** and **neighbours** are safe. We use guests to mean anyone staying in your property and neighbours to mean anyone living nearby who might be affected by the guests staying in your property or by the condition of your property.
- 1.20. Licensing authorities can also set **additional conditions** to address any more specific local circumstances or concerns. These additional conditions might apply to everyone in that licensing authority area or might be specific to your property.

What happens next

- 1.21. The Licensing Order was laid at the Scottish Parliament in September 2021 and comes into force on 1 January 2022.
- 1.22. Licensing authorities should have their licensing scheme ready to receive applications on 1 October 2022. After 1 October 2022, new hosts and operators will need to have a licence. This means that, if you were not using your premises to provide short-term lets before 1 October 2022, you cannot take bookings or receive guests until you have a licence. This applies to each of your premises separately.
- 1.23. Using the property means that you have had guests to stay. You can advertise and promote your property before you have a licence.
- 1.24. If you have already been using your property to provide short-term lets before 1 October 2022, then you have until 1 April 2023 to apply for a licence. Such hosts and operators are called **existing hosts** in this guidance. You will need to be able to prove that you used the property for short-term lets, for example through evidence of bookings and payments.
- 1.25. All short-term lets in Scotland will need to be licensed by 1 April 2024.

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1.26. Until 1 April 2023, existing hosts can operate a short-term let without a licence. Until 31 March 2024, existing hosts can operate a short-term let without a licence, provided they made an application by 1 April 2023. On or after 1 April 2024 operating without a licence is unlawful in all cases. On or after 1 October 2022, it is an offence for any person to continue to operate after their licence application has been determined and refused. All hosts and operators in Scotland must be licensed by 31 March 2024 at the very latest.

1.27. This is summarised in the following table:

Period	Rules for hosts and operators
From 1 October 2022	<ul style="list-style-type: none"> • Existing hosts can operate without a licence (but must obviously continue to comply with existing laws and regulations) • Existing hosts should use this time to make a licence application • New hosts must not operate without a licence • Any host must cease operating if their licence application is refused
From 1 April 2023	<ul style="list-style-type: none"> • Existing hosts can operate without a licence but only if they have submitted an application and it has not been determined • New hosts must not operate without a licence • Any host must cease operating if their licence application is refused
From 1 April 2024	<ul style="list-style-type: none"> • All hosts must have a licence • Any host must cease operating if their licence application is refused

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

Example

Adrian has been letting out a whole house for short-term lets since 2019. Adrian wants to start letting out a cottage from December 2022. Adrian does not need to apply for a licence for the use of his house until 1 April 2023. Adrian must have a licence before making bookings or receiving guests at his cottage. However, he can advertise for both the house and the cottage at any point.

Development of the licensing scheme and guidance

- 1.29. You can find out more about how the licensing scheme was developed on the Scottish Government website: [Short-term lets: regulation information - gov.scot \(www.gov.scot\)](https://www.gov.scot/short-term-lets-regulation-information)
- 1.30. This guidance has been produced by the Scottish Government. A [stakeholder working group](#) was established in February 2021 in order to help the Scottish Government to write this guidance with the aim that it is comprehensive, helpful and easy to understand.
- 1.31. Representation on the group reflected the diverse nature of the short-term letting market, and included members from: local authorities, trade associations, letting agencies and platforms, Visit Scotland, representatives of urban and rural residents, Police Scotland, Scottish Fire and Rescue Service, and the Scottish Government’s independent Regulatory Review Group. A full list of members can be found on the website.

Updates

- 1.32. This version of the guidance is draft to accompany the publication of the draft Licensing Order, for consultation, in June 2021. The Scottish Government intend to lay the Licensing Order at the Scottish Parliament in September 2021.
- 1.33. A final version of the guidance will be published in autumn 2021.
- 1.34. This guidance may need to be updated from time to time due to a range of factors, such as changes to legislation or suggestions for improvements from stakeholders.
- 1.35. The latest version will always be available at: [Short-term lets: regulation information - gov.scot \(www.gov.scot\)](https://www.gov.scot/short-term-lets-regulation-information)
- 1.36. We will notify licensing authorities of any updates.

2. Do you provide short-term lets?

Introduction

- 2.1. If you are providing short-term lets, you will sooner or later require a licence in order to continue doing so. This applies to all types of short-term lets, whether this is a room in your own home or a whole property, because basic safety for guests and neighbours is important in all circumstances.
- 2.2. Many people think they know what a short-term let is. However, it is important to be precise about what is and is not a short-term let, as it would be an offence for you to provide short-term lets without a licence when one is required. This section of the guidance will help you work out whether you are providing short-term lets.
- 2.3. If you are providing anyone with residential accommodation anywhere in Scotland, then you might be providing short-term lets. It does not matter whether the property is provided for work or leisure purposes and whether the property is in your own home or in a different place. It does not matter whether you are the owner or the tenant of the property. In all of these cases you may be providing short-term lets.
- 2.4. Broadly speaking, the way the legislation works is that all uses of residential accommodation are included unless they are specifically excluded. So you need to check whether the purposes for which you are using your property are excluded. Before we go into this in more detail, it is useful to understand the types of short-term let and what the licences cover.

Types of short-term let

- 2.5. The legislation⁴ defines three types of short-term let as follows:
 - **“home sharing”** means using all or part of your own home for short-term lets whilst you are there;
 - **“home letting”** means using all or part of your own home for short-term lets whilst you are absent, for example whilst you are on holiday; and
 - **“secondary letting”** means the letting of property where you do not normally live, for example a second home.
- 2.6. It is sometimes useful to make these distinctions, so we will use the terms in this guidance.

⁴ In paragraph 19A of schedule 1 to the 1982 Act (inserted by paragraph 14 of the Licensing Order).

How licensing works

- 2.7. You will need a separate licence for each of your premises, whether or not they are in the same licensing authority area. However, a single licence may be issued in respect of unconventional accommodation (not a **dwellinghouse**) where there is more than one separately bookable property on the site.

Example

Bob owns and operates three properties in Glasgow which he operates as short-term lets. Bob must apply to Glasgow City Council for three separate licences, one for each property. Bob is found to be a fit and proper person and two of his applications are granted. However, one property is in a control area and for which Bob has not made an application for planning permission. The third application is refused, pending determination of a planning application for the property.

Michael owns a property in the Highlands, and another in Perth and Kinross, both of which are operated as short-term lets. Michael must apply for a licence from Highland Council and another from Perth and Kinross Council.

- 2.8. We use dwellinghouse in this guidance to mean house, flat or cottage; an independent dwelling (with its own front door, kitchen and bathroom).

Example

Isobel operates 30 yurts within the same field and only requires a single licence. But Michaela operates 15 yurts in one field at one end of the village and 15 yurts in another field at the other end of the village requires two separate licences.

- 2.9. You do not need a separate licence for short-term lets on the same premises. For example, if you are letting out two rooms in your home, that would be covered by one licence.
- 2.10. Your licence will normally specify the type of short-term let for which the premises can be used. Licensing authorities will normally issue a licence for a premises for either:
- home sharing and home letting; or

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- secondary letting.
- 2.11. You must not use your premises for a type of short-term let that is outside the scope of your licence. If you want to make a change, you must apply to the licensing authority that issued the licence.

Questions to consider

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

Have you made an agreement in the course of business?

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

Is it the guests' only or principal home?

- 2.16. If you are letting out property to your guests as their only or principal home, then it is not a short-term let. For example, if you are letting out your property as a private residential tenancy then that is not a short-term let. It does not later become a short-term let, even if it is no longer their only or principal home.
- 2.17. There are other tenancies, such as agricultural, crofting and social housing which are also likely to be the tenants' only or principal home and therefore excluded⁵.
- 2.18. Providing accommodation to a lodger in your own home (where it is the lodger's only or principal home) is also excluded.

⁵ See paragraph 2 of schedule 1 of the Licensing Order.

How long are your guests staying?

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

Are you charging your guests?

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

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

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

Are your guests related to you?

2.22. If you are letting property to immediate family⁶, then this is not a short-term let. Immediate family is specifically defined in the Licensing Order. It is not a short-term let if one of the guests in the let:

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

2.23. In this definition:

- partner means spouse, civil partner or someone you live with as if you were married to them;

⁶ Article 2(4) and 2(5) of the Licensing Order.

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- children with one parent in common are to be regarded as siblings; and
- stepchildren are to be regarded as children.

Are your guests staying to work for you?

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

Are your guests staying for educational reasons?

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

What kind of property are you offering?

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

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2.30. The following types of property are excluded:

- a) **Licensed accommodation**, under the Licensing (Scotland) Act 2005 where the provision of accommodation is an activity listed in the operating plan, or which otherwise requires a licence for use for hire for overnight stays. If you operate a restaurant with rooms or an inn, for example, which is already licensed specifically to offer accommodation then you are not providing short-term lets. Many hotels are licensed under the 2005 Act and would be excluded. If you provide licensed caravans⁷, you are not providing short-term lets. However, if you have an HMO licence for your property, you would still need a short-term lets licence if it is also to be used for short-term lets⁸. This is the case whether or not you live at the premises covered by your HMO licence.
- b) **Accommodation provided by your guests**, for example where they bring their own tent (as opposed to glamping where the tent is normally fixed and provided by the host).
- c) **Mobile accommodation**, which is capable of transporting your guests at the time of their stay. This would exclude, for example where you hire out canal boats or yachts. However, a previously mobile unit that had been immobilised, such as an old tractor or a caravan in a tree would not be excluded.
- d) **Hotels**, with planning consent to operate as a hotel⁹. Note that the majority of hotels are excluded through being licensed to provide accommodation under the Licensing (Scotland) Act 2005 (see (a) above).

2.31. The following types of more specialist types of accommodation are also excluded¹⁰:

- a) **Aparthotels**, comprising five or more serviced apartments in a residential building. (Note that serviced apartments are defined in the Licensing Order¹¹.)
- b) **Health and care accommodation**, such as residential care homes, hospitals and nursing homes.

⁷ Under the Caravan Sites and Control of Development Act 1960. The Housing (Scotland) Act 2014 inserted a new Part 1A into the 1960 Act creating a new licensing system for relevant permanent sites.

⁸ For example, where the property was used as an HMO for students during the academic year and for short-term lets for the summer.

⁹ I.e. class 7 use as set out in the Town and Country Planning (Use Classes) (Scotland) Order 1997.

¹⁰ Set out in Schedule 1 of the Licensing Order.

¹¹ Paragraph 3 of Schedule 1 of the Licensing Order.

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- c) **Educational accommodation**, such as residential schools, colleges, training centres and purpose-built student accommodation. Student halls of residence, for example, are excluded but houses and flats which are normally let to students are not excluded.
 - d) **Secure residential accommodation**, including prisons, young offenders institutions, detention centres, secure training centres, custody centres, short-term holding centres, secure hospitals, secure local authority accommodation or military barracks.
 - e) **Hostels and refuges**. A hostel provides residential accommodation and food, or shared facilities to prepare it, other than in a house. Refuges include accommodation for women escaping domestic violence, for example.
 - f) **Shift accommodation**. Property owned by an employer and provided to an employee in terms of a contract of employment or for the better performance of the employee's duties. This excludes accommodation provided by companies and other bodies to employees as part of a contract or to help them perform their duties. For example, caretakers or workers on an oil rig (insofar as the accommodation is within Scottish territorial waters), where shifts extend into multiple days.
- 2.32. Excluded property extends to property which is part of any of the above. So, for example, self-catering property in the grounds of a licensed hotel would also be excluded.
- 2.33. If you think any of these exclusions might apply to you, then please refer to schedule 1 of the Licensing Order and the Policy Note for more information.

DRAFTING NOTE: We propose to include worked examples of determining whether a property is being used a short-term let in the final guidance. We will include an example of a hotel with self-catering units on the premises.

3. Following best practice

Engaging with your neighbours

- 3.1. When the licensing authority receive your application for a licence, they will alert your neighbours and give them the chance to raise any objections. (The planning authority, usually also the local authority, will also do this if you submit a planning application.)
- 3.2. Licensing authorities can choose how they tell your neighbours. They can either send a notice to neighbours or display a notice¹². Broadly speaking, the licensing authority must notify your neighbours within 20 metres of the boundary of your premises. If your premises is in a block of flats or a tenement stair, this will include all residents in the block or on the tenement stair and likely to extend to other nearby addresses too. In rural areas, this will at least extend to nearest neighbours.
- 3.3. Ideally, you will have already established good relationships with your neighbours. But we know that some hosts and operators are unknown to their neighbours.
- 3.4. Given that your neighbours will be notified of your application for a licence and will have the opportunity to object, you are encouraged to let your neighbours know in advance about your application, and that they will receive a notification from the licensing authority, so that they are not surprised.
- 3.5. When you do this, you may wish to ask your neighbours if they have had any problems with your short-term let (for existing operations) or if they have any concerns about your proposals (for new operations). This will provide an opportunity to engage and address any concerns ahead of submitting an application. As with any dispute, early informal resolution is always better than letting fears or problems grow and develop into a formal process.
- 3.6. The Scottish Government has heard from communities and residents through our 2019 and 2020 consultations, and at various other meetings and events. An ongoing theme in our engagement with communities and residents is that the majority of areas of conflict between residents and short-term lets arise where hosts and operators are not local and not known to their neighbours.
- 3.7. In many cases, neighbours who have contact details for the host or operator of a short-term let have an established relationship and a means to highlight any issues. Remember that you may be unaware of any problems. You may

¹² See paragraph 2(2A) and paragraph 19A of schedule 1 to the 1982 Act; neighbouring land aligns with the definition for planning purposes.

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be doing your best but your guests may be causing problems for neighbours which you do not see or experience.

- 3.8. Where neighbours object to your application to use a property to provide short-term lets, you will be given the opportunity to respond to the objections either in writing or at a hearing. Further detail on this is provided in chapter 6.
- 3.9. Neighbours have the right to object to your application and, whilst engaging your neighbours is a good thing to do, you must respect this right. Even well-intentioned engagement could come across as intimidating if it is not handled sensitively.

Providing a quality experience for your guests

- 3.10. Most hosts and operators want to provide the best service that they can and get satisfaction from positive feedback from guests. Many guests will post reviews, often through the **letting agency** or **platform** through whom they made the booking.
- 3.11. We use letting agency to mean an organisation which facilitates the agreement between the host or operator and the guest for use of the property as a short-term let and which may additionally provide other services (marketing, bookings, queries, cleaning etc.). A letting agency here offers a similar service to those providing for private residential tenancies; indeed some letting agencies will facilitate both private residential tenancies and short-term lets.
- 3.12. We use platform to mean an online letting agency. For example Airbnb, booking.com and Expedia are all platforms. There are also many smaller, more specialist platforms for particular types of property. There are also “super-platforms” that allow hosts and operators to offer their property across a number of platforms simultaneously.
- 3.13. It also makes business sense to provide your guests with the best possible experience before, during and after their visit.
- 3.14. VisitScotland offers a [Quality Assurance Scheme](#) that demonstrates a business’s commitment to providing a clean, safe and welcoming visitor experience. Being a member of the Quality Assurance grading scheme enables a business to protect and build on prudent business practices, and also brings benefit to visitors by way of reassuring them with transparency in standards of quality.
- 3.15. There are companies, such as [Quality in Tourism](#), that can provide support, both in terms of meeting minimum standards and going further to provide the best possible service to guests, and accreditation services. Your licensing

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authority might accept accreditation or certification from third parties as evidence of compliance with licensing conditions. You should confirm your licensing authority's requirements before paying for third party certification for that purpose.

Following industry codes of practice

3.16. There are a number of various trade bodies and membership associations who provide advice and support to hosts and operators of short-term lets, including:

- The Association of Scotland's Self Caterers
- The UK Short-Term Accommodation Association
- The Scottish Bed and Breakfast Association
- The Scottish Guest House and B&B Alliance
- The Scottish Tourism Alliance.

3.17. Information and advice from these organisations can help you provide a quality experience for your guests and help you build and maintain good relationships with your neighbours. Many of these organisations publish codes of practice or conduct on their websites.

3.18. For example, the Association of Scotland's Self-Caterers ask members to sign up to their [code of conduct](#), which sets out the standards with which their member hosts and operators are expected to comply. These points (maintaining residential amenity) are particularly relevant to maintaining good relationships with neighbours:

- communicate to guests that use of the property is for holiday or business only and any other use, including parties, is by prior permission only;
- communicate to guests that visitors to the property are not permitted without prior permission;
- communication to guests that the number of persons booked may not be exceeded;
- encourage all guests to be mindful of neighbours when coming in late, to not make excessive noise and to read the 'house rules' which should be provided;

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- ensure cleaners or other service providers show respect to neighbours when such services are being performed;
- display a notice in the property or guest handbook asking guests to respect neighbours; and
- have clear instructions for rubbish and recycling which meet the local guidelines for collection and responsible removal or ensure that rubbish is removed and uplifted at each changeover; provide dedicated contact details for members of the public or local authorities to register complaints.

Disclaimer

3.19. Please note that the Scottish Government does not endorse any particular service provider or trade body. You should do your own research and work out the best approach for your circumstances. If in doubt, you should seek your own legal advice.

4. Getting ready to apply for a licence

- 4.1. Before you apply for a licence, you should check that you will be able to meet all the mandatory conditions that apply across Scotland. You should also check with your licensing authority whether they have additional conditions which are likely to apply to your circumstances. For example, there may be additional restrictions or conditions that apply to your type of short-term let, your premises or your local area.
- 4.2. In addition, you should check whether your local authority's planning policies might affect your short-term let activity, including whether you might be affected by a control area.
- 4.3. You should also check whether your licensing authority has set out policies on:
 - **overprovision** – your application may be refused if your licensing authority considers that there is already too much short-term let activity in the area in which your premises is located;
 - **temporary licences** – you may be able to apply for a temporary licence which would allow you to continue to operate whilst your licence application is fully determined; or
 - **temporary exemptions** – you may be able to apply for a temporary exemption if you only want to operate for a particular occasion or for a short period, and the licensing authority in which your premises is located provides for these.
- 4.4. Temporary licences and temporary exemptions are explained in more detail in **chapter 5**.
- 4.5. In assessing your particular application, your licensing authority will consider:
 - your suitability and that of the other people named on your application form (see below); and
 - your compliance with the mandatory conditions;
 - your compliance with any additional conditions that the licensing authority might attach to your licence; and
 - the suitability of your premises in the context of the licensing authorities policies, including in respect of overprovision.

Who can make an application

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

Fit and proper person test

- 4.9. Before you make an application for a licence, you must identify all the people who need to be named on the application form. Everybody named on the application form will be subject to the fit and proper person test and it is important that the right people are considered.
- 4.10. You will normally need to include yourself, the owners (if not you), and everyone involved in the day-to-day management. This is explained in more detail below.
- 4.11. Licensing authorities are responsible for determining whether you are a fit and proper person to offer property for short-term lets in their area. Your licensing authority is likely to take account of the following:
- a) relevant criminal convictions and other relevant information from the police;
 - b) being disqualified from being a private landlord or having had letting agent or property factor registration revoked now or in the past;
 - c) having had a licence for short-term lets or House in Multiple Occupation (HMO) revoked by any licensing authority;
 - d) having had an application for a short-term lets licence refused by any licensing authority (other than on the grounds of overprovision); and
 - e) providing false or misleading information in an application for a short-term lets licence, HMO licence or application to be a private landlord.

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- 4.12. Licensing authorities can also consider any other information they consider to be relevant. They will liaise with the police for information as appropriate. They have powers to request additional information, or make reasonable enquiries, for example to verify the details of all property owners.
- 4.13. The purpose of collecting this information is to assess the fitness of applicants and any agents (or day-to-day managers) to be involved in providing property for short-term lets. Whilst the majority of hosts and operators are honest and well-intentioned, we know that there are some who are negligent or use their business for criminal purposes¹³.
- 4.14. The purpose of these checks is to: protect neighbours, guests and other people from harm and crime; and to assist the police in law enforcement.
- 4.15. Your application will be refused by your licensing authority if, in their opinion, you (or your agent) is not a fit and proper person to be have a licence¹⁴.
- 4.16. If you have any concerns about this, you should seek advice before submitting your application as it may be better to make different arrangements.

Who should be named on the application

Hosts and operators

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

Owners

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

Day-to-day management

- 4.21. Any people that you are asking to do the day-to-day management of your property should be named on your application. For example, this might be a spouse, a friend or someone you employ.

¹³ For example, we know that some short-term lets are used for: prostitution; human trafficking; modern slavery; money-laundering; drug dealing; and other serious and organized crime.

¹⁴ Paragraph 5(3)(a)(ii) of Schedule 1 to the 1982 Act.

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- 4.22. If you have a letting agency to manage your property, then your application form should name the directors, partners or others responsible for the letting agency. However, the employees of the agency do not need to be named.
- 4.23. You should not name everyone with any involvement in your arrangements. For example, cleaners and others who enter the premises are not to be named on your application for that reason alone.

Example

Matilda owns a property which she asks a letting agency to manage on her behalf. The letting agency uses a cleaning company to prepare her property for the guests.

The letting agency should be named on Matilda's application. The cleaning company should not. No employees of either the agency nor the cleaning company should be named on the application.

Information required about those named on the application

- 4.24. You should be ready to provide the following information on your application form.
- a) If you are applying as an individual:
- your full name;
 - your date and place of birth;
 - your address;
 - your address history for last five years; and
 - e-mail and telephone number.
- b) If you are applying as a corporate entity (e.g. company or charity):
- your full name;
 - the address of its registered or principal office;
 - the names and private addresses and dates and places of birth of its directors, partners or others persons responsible for its management, including trustees in the case of charities.
- 4.25. Similar details must be provided for any agent or day-to-day manager.
- 4.26. You must have the consent of the owner (or each owner) and your application will be refused if that is not provided. Where premises are owned by multiple owners, you must provide:
- a) a declaration from each other owner, or each owner, that he or she consents to the application, or

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- b) a declaration from a person who is authorised to act on behalf of all the owners.

Mandatory conditions

- 4.27. The licensing scheme requires all licensed short-term lets to comply with mandatory conditions which apply across Scotland¹⁵. Many hosts and operators will already be complying with these mandatory conditions because some of them are already required through other legislation and others are best practice now.
- 4.28. As part of considering your application, your licensing authority will want to check that you and your premises are compliant with the mandatory conditions. They might do this through one or a combination of:
- a visit to your premises;
 - asking to see relevant documentation; or
 - asking you to declare that you have met the conditions.
- 4.29. Your application will be refused if you cannot show how you comply with the mandatory conditions so it is worth ensuring you are ready before making your application.
- 4.30. Failure to maintain the mandatory conditions would be a breach of your licence conditions and you could be fined or lose your licence(s) if you do so. It is important that you keep evidence of how you have complied with the conditions, for example records of safety checks and service visits.

Enlisting professional assistance

- 4.31. Responsible hosts and operators will want to do the right thing. For most of the mandatory conditions, there will be professionals out there who can help you. However, there will also be less scrupulous “professionals” who may be underqualified, inexperienced and/or happy to charge you an excessive amount, possibly to do unnecessary work or checks. You may be able to do some or most of the checks and work yourself by following this and other guidance (depending on your own background, qualifications and experience). Where you do need assistance, it is worth getting three quotes and/or a personal recommendation. You should always check that the “professional” has the relevant qualifications to do the check or work you are asking them to

¹⁵ Set out in schedule 3 of the Licensing Order.

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do. A number of local authorities operate trusted trader schemes which can help you to find honest and reliable tradespeople.

- 4.32. Beware of fire risk assessments which are expensive or of poor quality. You can find out more information about how to conduct a fire risk assessment from the [Scottish Fire and Rescue Service](#), including information about registered and accredited fire risk assessors.
- 4.33. Beware that some tradespeople might recommend electrical safety inspections more frequently than is merited by your circumstances in order to generate work for themselves. The minimum standard for this mandatory requirement is that an inspection is carried out at least every five years, as set out in the IET wiring regulations BS 7671.
- 4.34. Make sure you understand what is being recommended to you and why. A true professional will be happy to explain what they are recommending and for you to verify it.

Responsibility for the premises

- **Agents¹⁶**

You must not authorise any other person to carry on the day to day management of the short-term let of the premises.

- 4.35. You must name the people involved in the day to day management of your premises in your application. This is so that the licensing authority can check that they are suitable. You must not make different arrangements for the day-to-day management of your premises without getting the approval of your licensing authority.
- 4.36. If you want to appoint a new agent or day-to-day manager of your premises (see paragraph 4.21 and following), you should contact your licensing authority to find out how to make that change.

- **Safety**

- 4.37. Generally, you must take all reasonable steps to ensure the premises is safe for residential use¹⁷. The Licensing Order and this guidance cannot anticipate every circumstance. Safety will often be checked by a suitably qualified council official, such as an Environmental Health Officer. They will tailor any inspections they carry out to the particular circumstances of your premises. For example, there are some important differences in making sure a treehouse is safe, compared with a cottage, such as ensuring guests can

¹⁶ Paragraph 1 of schedule 3 of the Licensing Order.

¹⁷ Paragraph 9 of schedule 3 of the Licensing Order.

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access it safely. Where a council official carrying out a visit to your premises is in doubt, they will seek professional advice.

- **Maximum occupancy**¹⁸

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

4.38. Your licence will specify the maximum number of guests you can have to stay in your premises. You should state in your application how many guests you would like to accommodate.

4.39. Your licensing authority will consider the facts and circumstances of your application and determine the maximum number of guests you can accommodate. They may agree that the number you have requested is sensible, in which case this will be the number on your licence. We anticipate this will often be the case.

4.40. However, the licensing authority may also consider:

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

4.41. The licensing authority will want to consider the number of beds, bedrooms, size of the premises and means of escape.

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

4.43. Your licensing authority may wish to visit your premises or ask to see floor plans for it.

Example

John owns a flat with two bedrooms which might be expected to accommodate 2-4 people if it was their principal home. John has applied for a licence to accommodate 10 guests (four in bunk beds in each bedroom and two on a double sofa bed in the living room).

His licensing authority considers that eight guests could be accommodated safely but only four can be accommodated within tolerable noise and nuisance standards for neighbours. His licence

¹⁸ Paragraph 10 of schedule 3 of the Licensing Order.

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application is approved specifying a maximum occupancy of four guests.

- 4.44. Your licensing authorities may publish some criteria on maximum occupancy to help you work this out for your premises.
- 4.45. You must do everything you can to ensure that guests understand and comply with the maximum occupancy condition. There may be some guests who show up with too many people at the start of the stay or try to invite additional people to stay later without your knowledge. You must try to prevent this.
- 4.46. You should be clear on any advert or listing, and in your booking terms and conditions, on the maximum number of guests that you can accommodate. You should also be aware of the number of people present if you have cause to visit the premises during their stay. Anyone you ask to clean the premises at any point can also check that no additional bedding has been slipped in. Clearly, some types of booking present a greater risk than others (for example, you may have repeat visitors whom you know and trust). In some cases, it might be sensible to ensure your guests are greeted on arrival, although we appreciate COVID-19 has accelerated moves towards contactless check-in.
- 4.47. Your licensing authority may specify on your licence that your guests may bring a certain number of small children and these would not count towards the occupancy of the premises. Children above the age limit and any additional children of any age would count towards the occupancy.

• ***The repairing standard for houses and flats***¹⁹

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

- 4.48. The repairing standard requires:
- your premises to be wind and water tight and in all other respects reasonably fit for people to live in;
 - the structure and exterior (including drains, gutters and external pipes) must be in a reasonable state of repair and in proper working order;

¹⁹ Paragraph 9(2) of schedule 3 of the Licensing Order, which applies the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006.

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- installations for supplying water, gas and electricity and for sanitation, space heating and heating water must be in a reasonable state of repair and in proper working order;
- any fixtures, fittings and appliances that you provide for guests must be in a reasonable state of repair and in proper working order;
- any furnishings that you provide for guests must be capable of being used safely for the purpose for which they are designed;
- the premises must have a satisfactory way of detecting fires and for giving warning in the event of a fire or suspected fire;
- the premises must have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
- the premises must meet the statutory [Tolerable Standard](#).

4.49. The Tolerable Standard is the minimum standard for all housing, and a home which falls below this standard is considered to be unfit for human habitation.

4.50. The Repairing Standard is higher (and all housing which meets the Repairing Standard must meet the Tolerable Standard). Private residential tenancies and HMOs are also required to meet the requirements of the Repairing Standard.

4.51. If you are using a dwellinghouse for secondary letting, you must have a valid EPC certificate issued within the last 10 years. Note that you can be fined for failing to hold a valid EPC certificate for your premises under building standards legislation²⁰. Guidance on EPC requirements for holiday lets can be found here: [Energy Performance Certificates for Holiday Lets: guidance - gov.scot \(www.gov.scot\)](#)

- ***Fire safety: general***

4.52. The Licensing Order sets out some conditions around fire safety which your licensing authority will want to check for licensing purposes. Please note that you must also comply with other requirements in the Fire (Scotland) Act 2005 which the Scottish Fire and Rescue Service are responsible for enforcing, see paragraph 4.89 below. The general fire safety guidance will also help you to comply with the conditions on the premises, furniture and fittings set out below.

²⁰ The Energy Performance of Buildings (Scotland) Regulations 2008. See [Energy Performance Certificates: introduction - gov.scot \(www.gov.scot\)](#).

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- **Fire safety: the premises²¹**

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

4.53. This is stated explicitly in the Licensing Order and applies to all premises. (It is the same as the repairing standard.) So every host and operator should be complying with this requirement.

4.54. You must make sure you have taken adequate steps to ensure fire prevention, including fitting and maintaining working smoke and carbon monoxide alarms.

- **Fire safety: furniture and fittings²²**

You must—
a) ensure that all upholstered furnishings and mattresses within the premises comply with the Furniture and Furnishings (Fire Safety) Regulations 1988,
b) keep records showing that all upholstered furnishings and mattresses within the premises comply with the Regulations.

4.55. You could comply with this condition by:

- keeping photographic evidence;
- removing and retaining the labels themselves; or
- keeping receipts which confirm compliance (for example by providing a reference number or accurate description of the product).

4.56. You do not have to ensure that furnishings and mattresses retain their fire safety labels. This might be difficult to rely on because guests might deface or remove them.

- **Gas safety²³**

Where your premises has a gas supply—
a) the holder of the licence must arrange for an annual gas safety inspection of all gas pipes, flues and appliances in the premises,
b) if, after an annual inspection, any appliance does not meet the required safety standard, the holder of the licence must not grant a

²¹ Paragraph 2 of schedule 3 of the Licensing Order.

²² Paragraph 3 of schedule 3 of the Licensing Order.

²³ Paragraph 4 of schedule 3 of the Licensing Order.

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short-term let until the works necessary to bring the appliance to the required safety standard have been carried out.

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

Electrical safety²⁴

If you have electrical fittings or items in the premises, you must—

- a) ensure that any electrical fittings and items are in—*
 - (i) a reasonable state of repair, and*
 - (ii) proper and safe working order,*
- b) arrange for an electrical safety inspection to be carried out by a competent person at least every five years or more frequently if directed by the competent person,*
- c) ensure that following an electrical safety inspection, the competent person produces an Electrical Installation Condition Report on any fixed installations,*
- d) arrange for a competent person to—*
 - (i) produce a Portable Appliance Testing Report on moveable appliances to which a guest has access, and*
 - (ii) date label and sign all moveable appliances which have been inspected.*

- 4.60. This is a requirement in the Licensing Order for all premises. (There are very similar requirements in the repairing standard.) So every host and operator must comply with this requirement.
- 4.61. 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. The definition of an Electrical Installation Condition Report is set out in the Licensing Order²⁵.
- 4.62. The Scottish Government has produced [statutory guidance on electrical installations and appliances in private rented property](#). This guidance (in its Annex A) sets out who is competent to conduct an Electrical Installation Condition Report and you should have regard to this advice. Electrical Safety

²⁴ Paragraph 5 of schedule 3 of the Licensing Order.

²⁵ Paragraph 17 of schedule 3 of the Licensing Order.

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First have also produced a [landlords' guide to electrical safety](#). You will find these helpful as the same standards as apply to private residential tenancies also apply to short-term lets.

Water: private supplies²⁶

Where your premises is served by a private water supply, you 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.

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

Water: Legionella²⁷

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

- 4.65. The Legionella risk assessment does not need to be carried out by a professional; you can do it yourself. You do not need to conduct an in-depth, detailed assessment unless there is something unusual about your premises. The risks from hot and cold water systems in most residential settings are generally considered to be low because water is used regularly and does not stagnate.
- 4.66. You are advised to keep a brief record of what assessment you did. Your licensing authority may want to see it.
- 4.67. You can find out more on the [Health and Safety Executive webpage on legionella and landlords' responsibilities](#)

Other

- **Information to be displayed²⁸**

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

²⁶ Paragraph 7 of schedule 3 of the Licensing Order.

²⁷ Paragraph 8 of schedule 3 of the Licensing Order.

²⁸ Paragraph 11 of schedule 3 of the Licensing Order.

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- 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.

4.68. How you do this is up to you. You might display the information on a notice board or in a folder containing details about the premises. The important point is that guests can access it easily.

• **Planning Permission**²⁹

Where your premises is in a control area and where the use of the premises for a short-term let requires planning permission, you must either—
a) *have made an application for planning permission or*
b) *already have planning permission.*

4.69. You are advised to check whether you need planning permission to use your property to provide short-term lets, see the **planning guidance (Paper 6)**. Your licensing authority can refuse to consider your application if it looks like you need planning permission and you do not have it.

4.70. However, this mandatory licensing condition³⁰ is only relevant if:

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

4.71. 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.

4.72. It is possible that your planning authority could designate a control area affecting your premises after you have been granted a licence. You should be aware that a control area might be designated because of publicity and consultation about it. You may also be contacted directly because you have a licence. To comply with this licensing condition, you should submit a planning

²⁹ Paragraph 12 of schedule 3 of the Licensing Order.

³⁰ Of course, you must comply with planning law more generally but this is a mandatory condition of the short-term let licence application requirements which you must comply with for licensing purposes.

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application as soon as possible after the control area is designated. Your licensing authority will make reasonable allowance for you to do this.

- **Listings to include licence number, maximum occupancy and EPC rating³¹**

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

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

- 4.73. Where you have a licence, you must display your licence number on any listing or advert. Displaying your licence number will help guests to know that the property meets the standards of the licensing scheme and is likely to help you in attracting guests to your property.
- 4.74. You may advertise your property in advance of obtaining a licence and existing hosts may also accept bookings and continue to provide property whilst their licence application is considered. New hosts beginning operating after 1 October 2022 cannot accept bookings or receive guests until they have a licence. However, you must ensure that any advert or listing placed on or after you are granted a licence includes your licence number. Where you have electronic listings or adverts, for example on your own website or on a platform, you should update your listing or advert as soon as reasonably practicable after receiving your licence.
- 4.75. Some licensing authorities may issue you with a temporary licence, or a provisional licence number, whilst your application is being considered by them. In these cases, you should use the temporary licence number or provisional licence number on your advert or listing. Temporary licences are explained more at paragraph 5.12 and following. A provisional licence number would be issued for administrative convenience only and would not, of itself, permit you to receive any guests.
- 4.76. Licensing authorities and letting agencies (platforms) will conduct checks to ensure that licence numbers on listings and adverts are genuine and that these requirements are complied with.
- 4.77. As soon as you are notified that your application has been refused or your licence has been revoked, you should take down any adverts or listings for your property. Using your property for short-term lets would be an offence

³¹ Paragraph 13 of schedule 3 of the Licensing Order.

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(operating without a licence) and your adverts or listings could be perceived or used as evidence of your intention to break the law.

- 4.78. The purpose of displaying your EPC rating is to give your guests an idea about the energy performance of your property and also an indication of how costly the property is to heat, in the case where they have to pay for it. You are only required to display an EPC rating where you are required to have a valid EPC certificate, see paragraph 4.51 above.
- 4.79. Listings only need to display the EPC rating, not the full certificate. However, licensing authorities may wish to request a copy of the certificate as part of the licence application verification process. Note that you can be fined for failing to display an EPC rating for your premises on listings under building standards legislation³².

- **Insurance for buildings and public liability³³**

You must, for the duration of the licence, ensure there is in place for the premises—
(a) valid buildings insurance, and
(b) valid public liability insurance providing cover of not less than £5 million.

- 4.80. This condition is important to protect your interests, those of the owner of your premises, neighbours and guests, should any accident, damage or injury occur. You must make sure that insurance cover remains in place for the duration of your licence and does not lapse.
- 4.81. The buildings insurance must cover the short-term let activity but this could be through your own insurance policy or through a shared policy covering the premises (e.g. for an apartment block) or insurance taken out by the owner.

- **Payment of fees³⁴**

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

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

³² See [Energy Performance Certificates: introduction - gov.scot \(www.gov.scot\)](http://www.gov.scot).

³³ Paragraph 14 of schedule 3 of the Licensing Order.

³⁴ Paragraph 15 of schedule 3 of the Licensing Order.

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- **False or misleading information³⁵**

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

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

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

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

4.85. It is an offence to provide false or misleading information to your licensing authority. They could suspend or revoke your licence. You might also have to pay a fine.

Additional conditions

4.86. Your licensing authority can attach additional licence conditions to your licence³⁶. These conditions may be specific to you, apply to you and others in similar circumstances or apply to everyone in the licensing authority's area. They might do this because of particular local circumstances or because there is something special or unusual about your premises. You can find out more about the additional licence conditions that might apply to you on your licensing authority's website.

Example

Ahmed owns a large house in a rural setting which he wants to use for house parties of up to 15 people.

His licensing authority considers that it is likely that his premises will be hired by stag and hen parties and there is a risk of noise and

³⁵ Paragraph 16 of schedule 3 of the Licensing Order.

³⁶ These are called standard conditions in section 3B of the 1982 Act.

nuisance issues for neighbours, even though the house is detached with a large garden.

His licence application is approved subject to an additional condition that his guests do not gather in the garden or outdoor areas after 9 pm.

Other matters to consider

Other obligations

- 4.87. There are other matters you should consider beyond those which are requirements of the licensing scheme.
- 4.88. If you are providing **food** to your guests, you should make sure you comply with food hygiene and safety rules. Your licensing authority might ask you about this on the application form. If not covered by the licensing authority, you should make sure you register with your local authority as this is a requirement under the Food Premises (Registration) Regulations 1991³⁷ for any business which serves any kind of food or alcohol. Environmental health officers will advise you on how to operate safely and they may visit your premises.
- 4.89. As set out in paragraph 4.52, you must comply with the law on **fire safety** as set out in the Fire (Scotland) Act 2005 (“the 2005 Act”). The 2005 Act requires the person who has control of the premises to provide fire safety measures, including risk reduction measures, means of fire warning, fire-fighting, escape, staff training and instruction, as well as emergency procedures. It sets out fire safety responsibilities and seeks to ensure people are safe from harm caused by fire.
- 4.90. You must take appropriate action to:
- assess the risk from fire in your premises;
 - identify the fire safety measures necessary as a result of the assessment of risk;
 - implement these fire safety measures, using risk reduction principles;
 - put in place fire safety arrangements for the ongoing control and review of the fire safety measures;

³⁷ Made under the Food Safety Act 1990.

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- comply with any further specific requirements of the fire safety regulations;
 - keep the fire safety risk assessment and outcome under review; and
 - maintain good records.
- 4.91. You can find out more here: www.gov.scot/publications/practical-fire-safety-guidance-existing-premises-sleeping-accommodation/. Broadly speaking, Annex 2 of this guidance is aimed at premises used for secondary letting with no more than 10 guests and home sharing with no more than 8 guests. If you are in doubt about your legal obligations, you may wish to seek further advice.
- 4.92. You must comply with the terms of the **title deeds** of your premises. Some title deeds contain specific conditions around what you can and cannot do covering such matters as wide ranging as: mineral rights; use as a public house; and the keeping of fowl or cloven-footed animals. Your title deeds may contain provision around hospitality.
- 4.93. You must make sure that you declare your income from your short-term let activity for **tax** purposes.
- 4.94. If you have a mortgage or loan secured against your premises, you should **check with your lender** that you are allowed to use your premises as you intend.
- 4.95. Generally, it is your responsibility to make sure you **comply with any relevant laws** that apply to you, your business or your premises.

Good practice

- 4.96. You might wish to consider engaging with your neighbours ahead of making an application as set out in chapter 3.

5. Making an application for a licence

Overview

- 5.1. As explained in **chapter 2**, you need a licence for each premises you intend to use for short-term lets. You will need to make a separate application for each premises and submit each application to the relevant licencing authority. Remember, it is the area in which your premises is located which determines the relevant licensing authority for each application.
- 5.2. For each premises, you need to decide whether you are applying for:
 - a) a licence for home sharing and home letting; or
 - b) a licence for secondary letting.
- 5.3. This is because your licensing authority may treat these applications differently, for example in terms of fees payable or where your premises is in a control area.
- 5.4. You should also decide whether you are going to apply for an exemption or a temporary licence.

Temporary exemptions

- 5.5. Your licensing authority can grant temporary exemptions to the requirement to have a licence³⁸. They can do this for:
 - a specified occasion; or
 - a specified single continuous period not exceeding 6 weeks in any period of 12 months.
- 5.6. They might do this to accommodate a large influx of visitors over a short period to support sports championship competitions and arts festivals, for example. To get a temporary exemption, you need to apply for one.
- 5.7. There are some important differences between applying for, and operating with, a temporary exemption and having a licence. Your licensing authority might:
 - ask for the application to be made on a different (shorter) form;
 - charge a different (lower) fee;

³⁸ Paragraph 1A of schedule 1 to the 1982 Act, inserted the Licensing Order.

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- ask for less information than on a licence application; and
 - not apply some of the mandatory conditions.
- 5.8. Your licensing authority can check and enforce any conditions that are attached to your exemption. Your licensing authority would have the right to visit your premises.
- 5.9. Your licensing authority may choose not to issue any temporary exemptions under any circumstances or may have specific criteria that they apply. If you think a temporary exemption might be the right approach for your circumstances, you should check your licensing authority's short-term lets temporary exemptions policy statement, which you should be able to find on their website.
- 5.10. Your licensing authority can grant or refuse an application for a temporary exemption. If they grant your application, you will be given a temporary exemption number (like a licence number).
- 5.11. You should be aware that a temporary exemption from the requirement to have a licence does not affect the way planning rules apply to you. If any temporary changes to planning rules have been made (for example to handle a major international event), your planning authority will publicise these.

Temporary licences

- 5.12. Licensing authorities can issue temporary licences³⁹ but they need not do so. If you are granted a temporary licence, it can also last for up to six weeks or longer if you have also made an application for a licence. If you have applied for a licence, your temporary licence will last until your licence application is finally determined.
- 5.13. Temporary licences can provide a way for licensing authorities to allow new hosts and operators to start taking guests whilst their licensing application is being considered. Your licensing authority website will explain whether and how your licensing authority issues temporary licences, including how long it takes to issue them.
- 5.14. If you are granted a temporary licence, you will be given a temporary licence number. You must comply with all the mandatory conditions.

Duration of your licence

³⁹ Under paragraph 7(6) of schedule 1 to the 1982 Act.

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- 5.15. All licences only last for a certain amount of time before they expire. Your licensing authority will determine for how long your licence is valid before it expires and needs to be renewed.
- 5.16. Your licensing authority cannot give you a licence that lasts more than 3 years on your first application. When you apply to renew your licence, your licensing authority could grant it for a longer period. Your licensing authority may grant licences of different durations to different hosts and operators. In doing so, they might take account of issues and complaints that have arisen.
- 5.17. Different licensing authorities will have different policies and you should check your licensing authority's website for more information.

Example

Judith's licensing authority has a blanket policy that, where they grant a licence for the first time, the licence lasts for two years. After that, where they grant a renewal, the licence lasts for either one year or three years, depending on whether or not there have been any complaints upheld about the premises.

Judith has provided short-term lets at her property without any issues during her first licence period of two years. When she applies for a renewal, her second licence is granted for three years.

Fees

- 5.18. Your licensing authority will charge a fee for a licence. You will need to pay the fee with your application. Different licensing authorities may charge different fees. The exact fee that you need to pay may depend on things like how many guests you want to accommodate. If you have premises in more than one licensing authority area, the fees you pay may be different, even for the same circumstances. You should check your licensing authority's website for more information on the fees that they charge and the methods of payment that they accept.
- 5.19. If your application is refused, your fee will not be refunded. However, you may receive a partial refund. Please check with your licensing authority before making an application.
- 5.20. If your licensing authority chooses to refuse to consider your application because you need to get planning permission first, they will tell you about this within seven days of making that decision. You will be able to resubmit your

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licensing application without paying any further fee⁴⁰ provided you do this within 28 days of planning permission being granted.

Owners' consent

- 5.21. You will need the consent of the owner (or each owner) for your licensing application⁴¹. Where a property is owned by multiple owners either of the following will be required:
- a) a declaration from each other owner, or each owner, that he or she consents to the application, or
 - b) a declaration from a person who is authorised to act on behalf of all the owners.

Application checklist

- 5.22. We have set out a checklist at **Annex A** of all the points we have covered in chapters 2 to 5 to help you make sure you are ready to make an application. This checklist only covers points that apply across Scotland. Your licensing authority might have a longer checklist on their website that covers these points and additional points (e.g. around fees and additional conditions) that apply in their area.
- 5.23. Your licensing authority website will have a copy of the application form and instructions about how to complete and submit it to them.
- 5.24. Your application will be considered incomplete and returned to you if you do not include all the information requested.

Handling guest bookings

- 5.25. You are permitted to advertise your property prior to being granted a licence. From 1 October 2022, new hosts must not take bookings without a licence.
- 5.26. You should make clear in your terms and conditions that the booking is conditional on your compliance with the licensing scheme. If your application for a licence is refused, or your licence is suspended or revoked it would be an offence for you to let your property to guests.
- 5.27. As soon as you are advised that your licence application is refused or your licence is suspended or revoked, you should contact all those with affected bookings. You should normally offer a full refund in these circumstances.

⁴⁰ Paragraph 2A(4) of schedule 1 to the 1982 Act, as inserted by the Licensing Order.

⁴¹ Paragraph 1(2)(da) of schedule 1 to the 1982 Act, as inserted by the Licensing Order.

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- 5.28. If you are notified that your licence application is refused or your licence is suspended or revoked, you have 28 days to appeal that decision⁴². During this time, you can continue to provide short-term lets. This gives you time to ensure any guests have left your property before the notice takes effect. Notwithstanding this, guests should be asked to leave immediately if they are at serious risk of harm in your premises.

⁴² Provision in respect of refusal at renewal is made by paragraph 8(5), variation is made by paragraph 10(5)(a), and suspension and revocation is made by paragraph 11(9); all read with paragraph 18(4), of schedule 1 to the 1982 Act.

6. How your licensing application will be determined

Relevant considerations

- 6.1. Before considering your application in detail, your licensing authority will consider it in the context of their licensing and planning policies, including:
- their local development plan;
 - their overprovision policy, if they have one; and
 - their policy on planning control.
- 6.2. How the local development plan and any overprovision policy affect your application may depend on a number of factors, including: where your premises are located, the type of premises, the type of short-term let, the concentration of short-term lets in the local neighbourhood, the availability of housing for local people etc. This will vary across Scotland so you should check with your licensing and planning authority what their local policies are.
- 6.3. Your licensing authority may refuse to consider your application if they consider it would be a breach of planning control.
- 6.4. If your application proceeds to consideration, your licensing authority will look at the following information in assessing your application:
- whether the people named on your application are fit and proper persons to be involved in providing short-term lets – see paragraphs 4.9 and following;
 - evidence that you are compliant with the mandatory conditions – see paragraphs 4.27 and following;
 - whether any additional conditions would be attached to your licence – see paragraph 4.86; and
 - any competent objections received, see below.

Planning control

- 6.5. As stated at paragraphs 4.69 and following, you are advised to check whether you need planning permission to use your property to provide short-term lets. Your licensing authority has the power to refuse to consider an application for a licence if it considers that the use of the premises would breach planning

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control⁴³. That is to say, if it looks like you need planning permission and you do not have it.

- 6.6. However, this power will assist licensing authorities in handling applications for secondary letting of a dwellinghouse within a control area. But licensing authorities could use it in other circumstances too.
- 6.7. If your licensing authority refuses to consider your application for this reason, they must tell you within seven days and explain why they are refusing to consider the application.
- 6.8. Once you have obtained planning permission (or a certificate of lawfulness of use or development), you can resubmit your licensing application without any additional charge, providing it is done within 28 days of obtaining planning permission (or certificate).

Confirming the facts of your application

- 6.9. Your licensing authority will undertake checks to make sure that your application is accurate and complete. They may ask you to submit documentation with your application for this purpose, for example copies of certificates. They will check some information with Police Scotland and the Scottish Fire and Rescue Service.
- 6.10. Your licensing authority may want to visit your premises to do some checks in person or they may accept evidence from third parties. For example, if you have a report from an appropriately qualified person who has visited your premises and conducted relevant checks.
- 6.11. Most licensing authorities will take a risk-based approach to how much they look into each application. Usually, premises are visited as part of the application process but this may not always be the case. You will not be charged any extra for this type of visit; the costs are covered by the revenue from everyone's application fees.

Notifying neighbours

- 6.12. As explained in chapter 3, when the licensing authority receives your application, they will alert your neighbours and give them the chance to raise any objections. They will either send a notice to neighbours or display a notice.
- 6.13. If you have also made a planning application in respect of the short-term let activity at the same premises, the planning authority will also notify your

⁴³ Paragraph 2A of schedule 1 to the 1982 Act, as inserted by the Licensing Order.

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neighbours. The 1982 Act allows the licensing authority in the planning authority to combine this notice if they wish to do so⁴⁴. However, the grounds for objection are different for licensing and planning purposes.

- 6.14. We are encouraging licensing authorities to produce a pro forma template for objections so that you and your neighbours are clear on what might be a reasonable ground to object.

Handling objections

- 6.15. Objections may be made by neighbours or any other person who wants to raise an objection.

- 6.16. The primary purpose of the licensing scheme is to ensure short-term lets are safe and to address issues faced by neighbours. Reasonable grounds for objection to a licensing application may include:

- the application is not consistent with the licensing authority's policy on overprovision;
- 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.

- 6.17. See also the grounds for the licensing authority to refuse your application at paragraph 6.27 below. Objections can be made on any of these grounds.

- 6.18. Invalid grounds for objection include not liking you or not liking short-term lets in general.

- 6.19. Where a ground for objection does not relate to grounds for refusal, these can be disregarded by a local authority. They are likely to be disregarded if they relate to another process, for example, an objection to a licensing application on planning grounds.

- 6.20. Your licensing authority will consider any objection which:

- is made in writing;

⁴⁴ Paragraph 2(2C) of schedule 1 to the 1982 Act, as inserted by the Licensing Order.

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- specifies the grounds of the objection, or nature of the representation;
- specifies the name and address of the person making it; and
- is signed by the objector, or on their behalf.

6.21. Objections should be made within 28 days of public notice of the application being given. Your licensing authority will send you a copy of any relevant objections. You will have the chance to respond to any objections, either in writing or in person.

6.22. Your licensing authority will decide whether or not to hold a hearing in respect of an application. They do not have to do so and you cannot challenge their decision. If they do not hold a hearing, they will give you at least seven days to give your views in writing on all the objections received. It is for the licensing authority to determine whether any objection received has a material impact upon the licensing application.

The licensing committee

6.23. Where the licensing authority decides to hold a hearing this will be at a meeting of the licensing committee. The licensing committee comprises a number of local councillors who consider licensing applications for a range of purposes such as alcohol and taxis, as well as short-term lets. The licensing committee is likely to consider many licensing applications in one sitting.

6.24. If your application goes to the licensing committee, you, and any person who has made an objection, will be given the opportunity to be heard at the meeting of the licensing committee. Your licensing authority will give you, and any objectors, at least 14 days' notice of the hearing date. The meeting will be held in public, so other members of the public can observe the proceedings.

6.25. Objectors will be invited to speak to their objections, and you will be invited to state why your application should be granted.

6.26. Members of the committee may follow up with questions, ahead of deciding whether or not to grant your application. The decision and voting may take place in public or the committee may retire to consider and decide the applications.

Determining your application

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- 6.27. Your licensing authority must grant your application unless there are grounds to refuse it. Possible grounds for refusing your application may include⁴⁵:
- anybody named on your application is disqualified from having a short-term lets licence⁴⁶;
 - anybody named on your application is not a fit and proper person;
 - some other person is benefiting from the activity who would be refused a licence if they made the application themselves;
 - the premises are not suitable or convenient having regard to—
 - a) the location, character or condition of the premises;
 - b) the nature and extent of the proposed activity;
 - c) the kind of persons likely to be in the premises;
 - d) the possibility of undue public nuisance; or
 - e) public order or public safety; or
 - there is other good reason for refusing the application.

Timescales for determination

- 6.28. Existing hosts (see paragraph 1.24) who make an application before 1 April 2023 can continue operating whilst their application is being determined⁴⁷. Licensing authorities have 12 months to determine each application, beginning with the date on which the application was made.
- 6.29. In all other cases, licensing authorities have 3 months from the date on which the application was made to consider each application, and a further 6 months to determine each application.
- 6.30. The extended timescale for licensing authorities to determine applications from existing hosts received by 1 April 2023 is designed to help them manage the volume of applications they will receive.
- 6.31. If your licensing authority fails to determine your application within the timescales set out above, your licence will be deemed to have been granted,

⁴⁵ Set out in paragraph 5(3) of schedule 1 to the 1982 Act.

⁴⁶ Under section 7(6) of the 1982 Act.

⁴⁷ Article 6 of the Licensing Order.

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unless the licensing authority has been granted an extension by the court. If your licence were deemed to be granted, it would be valid for one year.

Your rights of appeal

- 6.32. You can appeal against your licensing authority's decision⁴⁸ by [summary application](#) to the sheriff, provided that you took every opportunity given to you to make your case to the licensing authority. You are advised to respond to the substance of any relevant objections.
- 6.33. You have to appeal within 28 days from the date of the licensing authority's decision, unless you have a good reason for being late. The sheriff can decide whether to consider a late application for an appeal.
- 6.34. The sheriff may uphold your appeal only if he considers that the licensing authority, in arriving at their decision –
- a) erred in law;
 - b) based their decision on any incorrect material fact;
 - c) acted contrary to natural justice; or
 - d) exercised their discretion in an unreasonable manner.
- 6.35. If the sheriff upholds your appeal, the sheriff may either ask the licensing authority to reconsider their decision or change the decision of the licensing authority.

How much does an appeal cost?

- 6.36. You should expect to pay any solicitor that you instruct to help you. You will also have to pay [court fees](#). Additionally, the sheriff may make an order as for one or other party to pay the other party's costs. For example, the licensing authority may have to pay your costs in making the appeal if the sheriff finds that they acted unreasonably in making their decision.

Time limit on reapplying

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

⁴⁸ The appeals process is set out in paragraph 18 of schedule 1 to the 1982 Act.

How your data will be managed

- 6.38. Licensing authorities are responsible for the storage, handling and disposal of all data related to licence applications they receive.
- 6.39. Licensing authorities are responsible for ensuring compliance with UK General Data Protection Regulations, as data controllers.
- 6.40. Certain personal data will be shared, for specific purposes, as follows:
- Within and between local authorities, Scottish Fire and Rescue Service and Police Scotland as part of the notification process in order to carry out background checks.
 - Published in a public register of licences.
 - Quarterly submissions to Scottish Government, so that data on licences from each local authority can be amalgamated at a national level, and to review against policy objectives. No personal data will be published in Scottish Government reports on short-term letting activity.
- 6.41. Further details on data processing can be found in the Data Protection Impact Assessment (DPIA) in the [2020 consultation report](#). Information about the processing of personal data is set out section C of the DPIA.
- 6.42. The following **personal** information will be published in the register:
- Your name (title, first name, surname)
 - Names of any day-to-day managers
 - The address of your premises (including postcode and URN).
- 6.43. Other information about your short-term let will also be published in the register.
- 6.44. The following **personal** information from your application or from Police Scotland background checks will be retained:
- Your contact details
 - The contact details of other people named on your application form
 - Date and place of birth (for all applicants, and any agent(s))
 - Unspent convictions involving: fraud and dishonesty; violence; drugs; firearms; and sexual offences.

How long will my data be stored for?

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

7. Staying compliant

Complying with licence conditions

- 7.1. You are responsible for ensuring that your short-term let activity complies with the mandatory conditions and any additional conditions which your licensing authority attaches to your licence.
- 7.2. Some licence conditions will require action before you make your application, for example around undertaking checks and works to make sure your premises are safe. It is important to remember that you will need to take further action in the course of your licence, for example making sure that annual and other regular checks are undertaken.
- 7.3. You are responsible for taking all reasonable steps to ensure that your guests comply with your licence conditions. You cannot monitor their behaviour 24-7, but there are plenty of measures you can take to increase the likelihood that they comply. An important start is to make sure that relevant licence conditions are communicated to them at the time of booking and again on arrival.
- 7.4. Some conditions require vigilance about how your property is used on a day-to-day basis, for example the maximum occupancy condition. Chapter 4 sets out some measures you can take to ensure that guests comply with the maximum occupancy condition.
- 7.5. Your licensing authority may want to undertake some form of checks, perhaps a visit or to see documentation, during your licence period. Your licensing authority will advise you on how they will check on compliance. See paragraphs 7.23 and following about licensing authority visits to your premises.
- 7.6. It is your responsibility to make sure you understand your licence conditions so that you can comply with them. If you do not understand anything, you should seek to clarify it as soon as possible.

Maintaining standards

- 7.7. You should make sure that you are alert to changes in standards through legislation or guidance that will from time to time occur. Signing up to communications from professional or trade bodies can help to alert you.
- 7.8. It is also worth paying attention to feedback or concerns raised by guests or neighbours and any advice from licensing authorities or other professionals. You should make sure that cleaners, or other people who are on the site at changeover between guests, look out for potential problems. For example,

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has a guest damaged some electrical equipment, removed notice or incapacitated a smoke alarm.

Taking property out of service

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

Preventing antisocial behaviour

- 7.12. You may find that some of your guests get involved with antisocial behaviour in or around your premises, affecting neighbours and local community. Antisocial behaviour legislation defines it for these purposes⁴⁹ as:

“A person engages in antisocial behaviour if the person:

- a) acts in a manner that causes or is likely to cause alarm, distress, nuisance or annoyance; or*
- b) pursues a course of conduct that causes or is likely to cause alarm, distress, nuisance or annoyance,*

⁴⁹ Part 7 of the Antisocial Behaviour etc. (Scotland) Act 2004, see section 81(4). Part 7 relates to this type of behaviour around people’s homes rather than antisocial behaviour in, say shopping areas, parks or pubs.

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to a person residing in, visiting or otherwise engaging in lawful activity at, or in the locality of, a relevant house.”

7.13. You might want to consider the following measures⁵⁰:

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

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

Requesting changes to your licence

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

- change your letting agency or property management company;
- make physical alterations to the premises;
- increase the number of guests at your premises; or
- increase the number of rooms you want to use for guests.

7.16. Your personal details might change.

7.17. You must notify your licensing authority of any significant changes relevant to your licence. Some changes, such as those at paragraph 7.15, will require

⁵⁰ Based on guidance on management practice for private rented tenancies in [Antisocial Behaviour etc. \(Scotland\) Act 2004: Part 7 – Antisocial Behaviour Notices: Guidance for Local Authorities \(www.gov.scot\)](#).

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the licensing authority's approval before they can happen. It is an offence to fail to notify or seek approval of significant changes. If you are unsure whether your (proposed) changes require notification or approval, please contact your licensing authority for advice. A fee may be payable in some circumstances.

Selling your premises

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

Visits to your premises

- 7.23. Your licensing authority can choose to visit your premises and inspect both the premises and any records associated with the conditions attached to the licence. They are not obliged to visit your premises.
- 7.24. They may visit: as part of considering your application; as part of a routine pattern of inspection; because a complaint has been made by a guest or

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neighbour; or to follow-up on a previous visit to confirm that an issue has been resolved.

- 7.25. Your licensing authority must give a reasonable period of notice to you (or your agent) ahead of a routine visit.
- 7.26. You will not be charged a fee for a routine visit. However, you may be charged if a (follow-up) visit is necessary because you have breached one of your licence conditions.
- 7.27. Your licensing authority can make unannounced inspections as a way of ensuring licence terms and conditions are adhered to at all times. An unannounced inspection may be the only way of proving (or disproving) a violation of some licensing conditions (e.g. occupancy). Licensing authorities can enter your premises forcibly if necessary, but would only do so in very unusual circumstances.
- 7.28. Where a visit raises concerns, your licensing authority can require you to take action to put it right. This will usually be done by serving an enforcement notice (“non-compliance” or “improvement” notice). Such notices are likely to specify a date or date(s) by which you should put things right. If you do not take satisfactory action in time, your licensing authority could vary, suspend or revoke your licence.

Suspensions and revocations

- 7.29. Your licensing authority has the power to suspend or revoke your licence. These are serious steps which are only likely to be taken when you have been given the chance to put things right and failed to do so and/or your guests are at serious risk of harm.
- 7.30. In considering whether to suspend your licence, your licensing authority may make such reasonable enquiries as they think fit. Before making a decision on whether or not to suspend your licence, your licensing authority will consult with the police and the Scottish Fire and Rescue Service.
- 7.31. Your licence may be suspended whilst the licensing authority considers whether or not to revoke your licence. If your licence is revoked, you will not be able to make a further application in respect of that premises within one year of the date of revocation.

Renewing your licence

- 7.32. If you want to continue to provide short-term lets after the end of your licence period, you will need to make an application for renewal of your licence. Your

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licensing authority will set out details of how you should go about this and provide a renewal application form.

- 7.33. The renewal process should be straightforward, especially for hosts and operators who have complied with their licence conditions and have not caused issues for neighbours.
- 7.34. You can apply to renew your licence at any time before it expires. If your licence expires before your renewal application is determined, you can continue to use your property to provide short-term lets until your renewal application is determined⁵¹.
- 7.35. If your licence lapses before you apply, then any subsequent application would be treated as a new application rather than a renewal.
- 7.36. An application for renewal comprises:
- a) confirmation that the matters set out in the application form or previous renewal are still correct and notification of any changes (e.g. around contact details etc.);
 - b) confirmation that the applicant remains a fit and proper person;
 - c) confirmation that the premises remains in compliance with the licence conditions; and
 - d) any request to make any changes to the terms of the licence.
- 7.37. Licensing authorities are not obliged to notify neighbours where a routine renewal application is made (i.e. without requests for significant changes).
- 7.38. If you request changes to the terms of your licence, then your licensing authority will consider these changes in a similar way as they would for an initial application.
- 7.39. Your licensing authority is likely to charge a fee for a renewal application (unless they operate a subscription model with regular fee payments). The fee may be different to the fee you were charged when you applied previously.
- 7.40. Your licensing authority can change the additional licence conditions attached to your licence at renewal, adding or removing any conditions.

⁵¹ Paragraph 8(5) and (6) of schedule 1 to the 1982 Act.

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

Surrendering your licence

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

8. Glossary of terms

8.1. In this guidance, the following terms are used. Please note that this is not a complete list of terms used and defined in the Licensing Order⁵²:

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

⁵² The Licensing Order defines many types of property that are excluded from the licensing scheme, for example.

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	may not be the owner or person who lives at the property);
“letting agency”	means an organisation which facilitates the agreement between the host or operator and the guest for use of the property as a short-term let and which may additionally provide other services (marketing, bookings, queries, cleaning etc.);
“licensing authority”	means an authority responsible for running the licensing scheme, usually a council;
“neighbour”	means, for our purposes, someone whose permanent residence is in close enough proximity to a short-term let to have a legitimate interest in its business, e.g. potentially affected by safety, noise, litter, nuisance;
“[your] own home”	means [your] only or principal place of residence, the place where you normally live;
“platform”	means an online letting agency;
“premises”	means the property and land on one site, normally premises have their own postal address;
“property” (or “accommodation”)	means any building or structure, or any part of the building or structure, and includes rooms in a home, a whole home or something more unusual like a yurt or a treehouse;
“secondary letting”	means a short-term let involving the letting of property where you do not normally live, for example a second home;
“short-term let of a property”	means the entering of an agreement between a guest and a host in the course of business for the use of the property as

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residential accommodation by a guest in
circumstances set out in chapter 2⁵³;

⁵³ Properly defined at article 3 of the Licensing Order.

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 licence. Getting your application right first time will make the process easier for you and your licensing authority and will help you to get a decision more quickly.

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

Preliminary	
I am providing or intend to provide short-term lets – see definition of short-term lets in chapter 2.	
I know the date by which I need to apply for a licence – see paragraph 1.22.	
I know whether I can continue operating whilst my application is processed – see paragraph 1.26.	
I know which type of licence I want to apply for – see paragraph 2.10: <ul style="list-style-type: none"> • home sharing and home letting; or • secondary letting. 	
I have identified my licensing authority based on the address of my premises.	
I have checked whether my licensing authority has an overprovision policy that might affect my application - see paragraph 4.3.	
I have checked whether my licensing authority considers applications for temporary exemptions and, if so, whether I should apply for one – see paragraph 5.5.	
I have checked whether my licensing authority considers applications for temporary licences and, if so, whether I should apply for one – see paragraph 5.12.	

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Applicants (see chapter 4)	
I have identified the owners and those involved with the day-to-day management of my premises.	
I have the permission of the owners of the premises to use it for this purpose.	
To the best of my knowledge, I and the other people I will name on my application are fit and proper persons.	
I have contact details for the people and organisations I will name on my application form.	

Mandatory conditions (see chapter 4)	
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.
General safety and standards	General safety – I have taken all reasonable steps to ensure the property is safe for residential use.
	Occupancy - I know how many guests I want to accommodate and I consider that I can do this safely.
	Repairing standard – I have worked out whether my premises is a dwellinghouse and whether the repairing standard applies to me. [If relevant] My premises meets the repairing standard.
	[If relevant] EPC – my premises has a valid EPC certificate issued within the last 10 years.
Fire safety	Fire safety: premises – I have installed satisfactory equipment to detect and warn against fire or suspected fire, and carbon monoxide.
	Fire safety: furniture and furnishings - my furniture and furnishings comply with fire safety regulations and I have records that demonstrate compliance.
Gas Safety	Gas Safety – I have an up to date Gas Safety Certificate (dated within the last 12 months).

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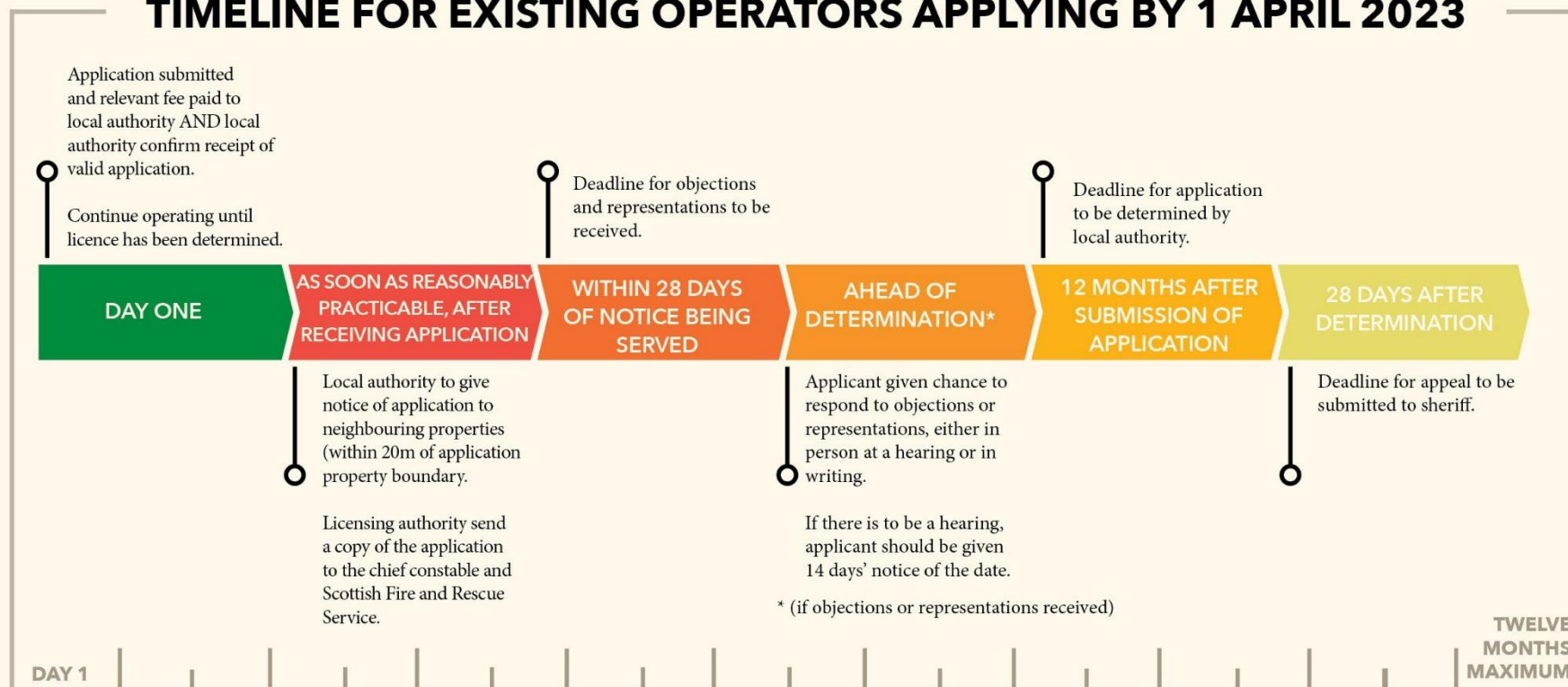
Mandatory conditions (continued)		
Electrical safety	Electrical safety – I have made sure my electrical fittings and items are in good working order;	
	arranged for an electrical safety inspection to be carried out by a competent person;	
	obtained an Electrical Installation Condition Report on any fixed installations; and	
	obtained a Portable Appliance Testing Report on moveable appliances to which my guests have access and labelled inspected items.	
Water safety	Water supply – 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.	
	I have completed a legionella risk assessment .	
Other	Information for guests – I have prepared information for guests and know where I will put it for them on the premises.	
	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.	
	Listings: licence number – I have made plans to display my licence number on adverts and listings.	
	<i>[If relevant]</i> Listings: EPC rating – I have made plans to display my EPC rating on adverts and listings.	
	Buildings insurance – I have checked that there is valid buildings insurance in place for the premises.	
	Public liability insurance - I have checked that there is valid public liability insurance for my activities, with a minimum level of cover of £5 million.	

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Additional conditions	
I have checked whether my licensing authority has any additional licence conditions and I can comply with the ones that are likely to apply to me – see paragraph 4.86.	
Other matters to consider	
Food safety - I understand the food hygiene and safety rules that apply to me – see paragraph 4.88.	
I comply with legal requirements that relate to fire safety set out in the Fire (Scotland) Act 2005 - see paragraphs 4.32, 4.52 and 4.89.	
I have checked the title deeds of my premises – see paragraph 4.92.	
I will declare my income from my short-term let activity for tax purposes – see paragraph 4.93.	
I have checked with my lender that I am allowed to use my premises for this purpose – see paragraph 4.94.	
I am complying with other legal requirements that affect me, my business or my premises – see paragraph 4.95.	
I have considered engaging with my neighbours – see paragraph 4.96.	
Fees	
I know the fee that I will be charged and I am ready to pay it with my application- see paragraph 5.18.	

Timelines for determining an application

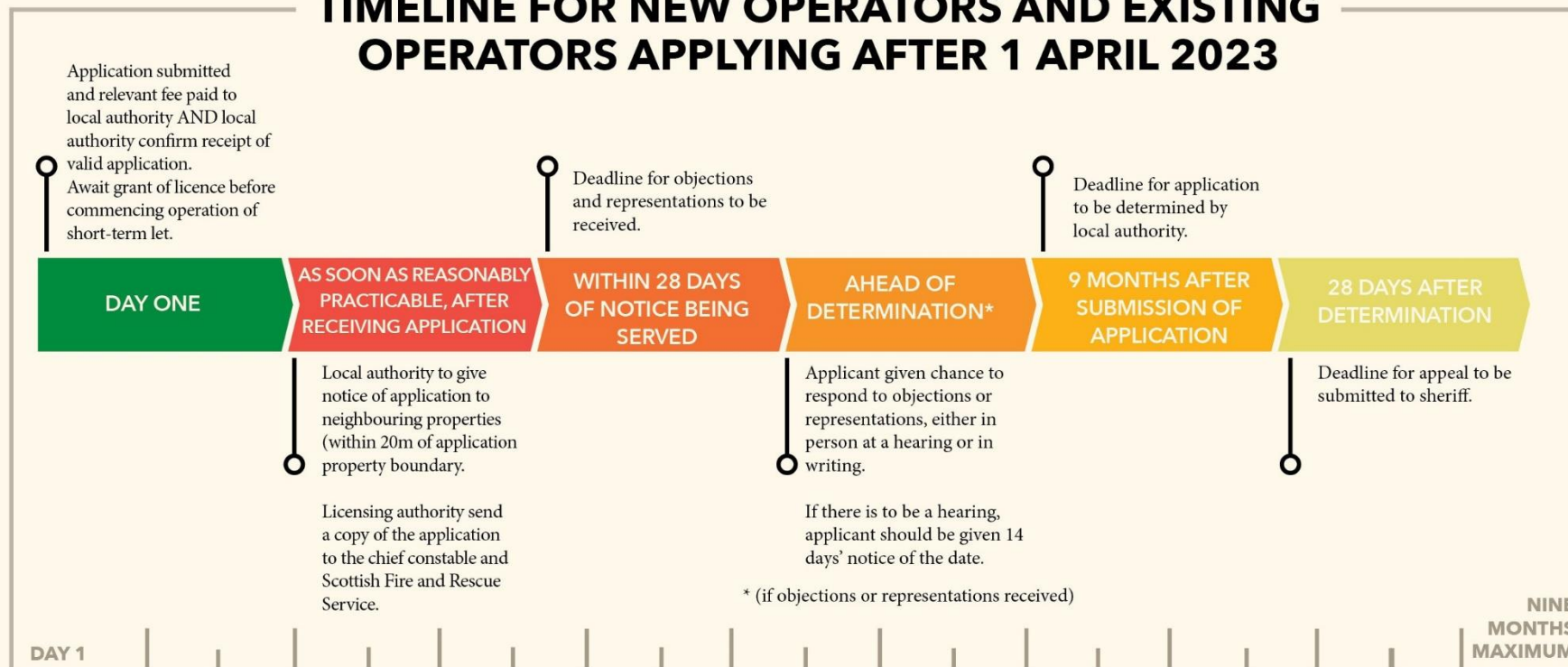
TIMELINE FOR EXISTING OPERATORS APPLYING BY 1 APRIL 2023



Note: Where an application hasn't been determined within 12 months it will be deemed to have been granted with no conditions for 1 year.

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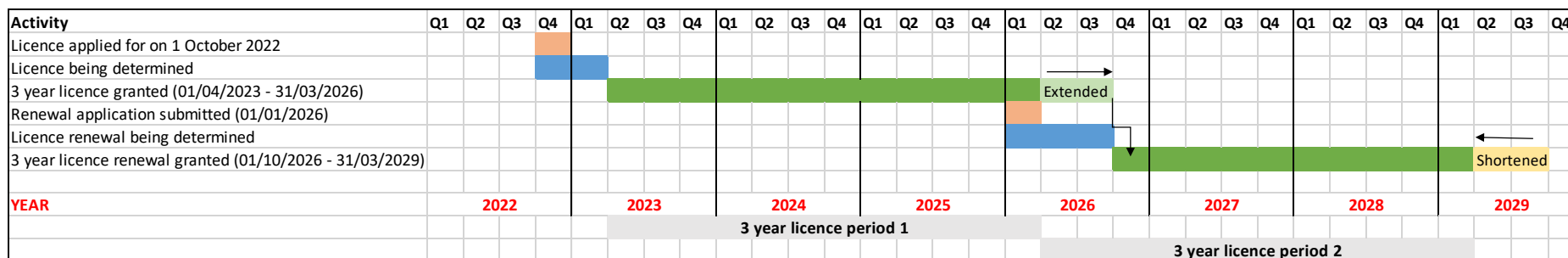
TIMELINE FOR NEW OPERATORS AND EXISTING OPERATORS APPLYING AFTER 1 APRIL 2023



Note: Where an application hasn't been determined within 9 months it will be deemed to have been granted with no conditions for 1 year.

Renewal process illustration

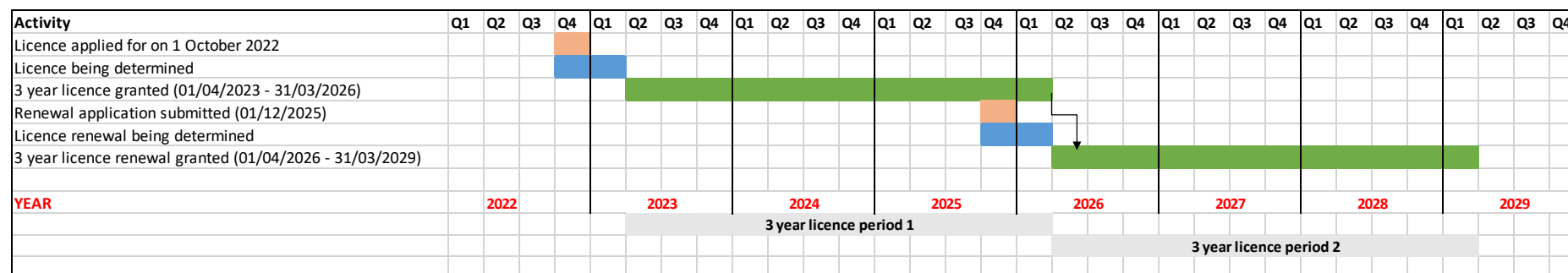
Example 1: Licence renewal determined following expiry of original licence



- In this scenario, the applicant applies for a new licence 3 full months ahead of the initial expiry date.
- The licensing authority have not determined the renewal application by the time the licence expires.
- Therefore the original licence is extended, until the licensing authority have determined the renewal application.
- In this example, the original licence is extended to cover a period of 3.5 years, and the renewal is approved, and shortened to 2.5 years - the equivalent of two 3 year licences.
- Please note that licensing authorities can choose to issue licences with durations of less than 3 years and renew licences for longer than 3 years.

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Example 2: Licence renewal determined prior to expiry of original licence



- In this scenario, the applicant applies for a new licence 4 full months ahead of the initial expiry date.
- The licensing authority approve the application 2 months ahead of the licence expiry.
- Therefore the original licence runs until the 3 year period expires, and the new licence starts following the expiry of the previous licence.
- In this example, two 3 year licences run back to back.
- Please note that licensing authorities can choose to issue licences with durations of less than 3 years and renew licences for longer than 3 years.

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Example 3: Renewal application made after expiry of original licence

Activity	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Licence applied for on 1 October 2022																												
Licence being determined																												
3 year licence granted (01/04/2023 - 31/03/2026)																												
Renewal application submitted (01/05/2026)																												
Licence renewal being determined																												
3 year licence renewal granted (01/01/2027 - 31/12/2029)																												
YEAR																												
													</															



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