

Short Term Lets in Scotland

Planning Guidance for Hosts and Operators

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1. Introduction

(a) About this guidance

- 1.1. This guidance is intended to provide guidance on planning to assist any person who is letting, or intends to let, a property as a short-term let.
- 1.2. Separate guidance has been produced for the short-term lets licensing scheme. 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 legal advice.

(b) Policy objectives

- 1.4. The Scottish Government's purpose in the regulation of short-term lets is to ensure that local authorities have appropriate regulatory powers to balance the needs and concerns of their communities with wider economic and tourism interests.

(c) Glossary

- 1.5. In this guidance, the following terms are used:

“the 1997 Act”	means the Town and Country Planning (Scotland) Act 1997 ;
“the Control Area Regulations”	mean the Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 (SSI 2021/154);
“the Control Area Amendment Regulations”	mean the Town and Country Planning (Short-term Let Control Areas) (Scotland) Amendment Regulations 2022 (SSI 2022/33)

“control area”	means a short-term let control area designated under section 26B of the 1997 Act, as amended by the Planning (Scotland) Act 2019;
“dwellinghouse”	For the purposes of this guidance means a unit of residential accommodation including a flat
“host” (or “operator”)	means a person or company providing accommodation for short-term lets;
“licensing scheme”	means the scheme established by the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (SSI 2022/32);
“property”	means the accommodation (room, rooms or premises) let to the guest(s) as a short-term let.
“Use Classes Order”	Refers to The Town and Country Planning (Use Classes) (Scotland) Order 1997

2. Guidance for hosts and operators

(a) Requirement for planning permission

2.1 Planning permission is required for all “development”. The definition of development in planning legislation includes making a material change in the use of any building or land. This is set out at Section 26 of the Town and Country Planning (Scotland) Act 1997, and covers a material change of use from a residential house or a flat to a short-term let use.

2.2 Making a material change of use without having the required planning permission may constitute a breach of planning control and your planning authority may take enforcement action to remedy the breach. This may include requiring you to cease the unauthorised use. Information on planning enforcement is set out in **Circular 10/2009: [Planning Enforcement](#)**.

2.3 Whether or not any particular change of use is material – and therefore requires planning permission – is a matter for the relevant planning authority to consider on a case-by-case basis. However, see paragraph 2.6 which explains the position where a short-term let control area is designated.

2.4 If you are considering using a house or flat as a short term let you should check with the relevant planning authority whether planning permission is required. If it is not required, you should consider applying for a “certificate of lawfulness” to confirm this (see paragraphs 2.19 - 2.26).

2.5 Scottish Ministers can use legislation to set out that certain changes of use are not development and therefore do not require planning permission. The relevant legislation is the Town and Country Planning (Use Classes) (Scotland) Order 1997 (referred to as “the Use Classes Order”). The Use Classes Order groups together various land uses into separate “use classes”. A change from one use to another use within the same class does not require planning permission (see paragraphs 2.9 – 2.10).

2.6 Section 26B of the Act allows planning authorities to designate all or parts of their area as short-term let control areas (STLCAs). Once a STLCA is in place, certain changes of use from a house or flat to a short-term let are automatically considered to be material (i.e. the planning authority no longer considers whether the change of use is material on a case-by-case basis). For further information on the properties to which section 26B does and does not apply see **[Planning Circular 1/2023: Short-term Lets and Planning](#)**.

2.7 It is important to note that section 26B is not itself retrospective, but also that it does not replace or alter any of the requirements for planning permission under section 26. This means that:

- Outside a STLCA, planning permission is required if the relevant planning authority consider the change of use to be material.
- Within a STLCA, the planning authority may consider that a change of use which is not automatically material under section 26B nevertheless constitutes a material change of use under section 26 and therefore requires planning permission. For example, it predates the designation of a control area or is a change of use from a previous use other than a dwellinghouse)

2.8 It is also important to note that, under The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, you may require a short-term let license to operate. You should refer to the [Guidance on short-term lets licensing](#) to check if this applies to you.

(b) Change of use to short-term letting that does not require planning permission

2.9 You do not normally need planning permission if you live in a house (not a flat) in the following circumstances:

- a) where you are only letting one bedroom in your own home and it has fewer than four bedrooms; or
- b) where you are only letting one or two bedrooms in your own home and it has four or more bedrooms.

2.10 This is because the above all fall within the same use class (class 9) of the Use Classes Order (see paragraph 2.5). Where you are letting out more rooms than this in your house then you may need planning permission. **It is important to be aware that use class 9 of the Use classes Order does not, and never has, applied to flats.**

(c) When to apply for planning permission

2.11 If you need planning permission, it should be obtained before you receive guests at your property. In this context “guest” means a person occupying a property for the purposes of a short-term let. You may require planning permission even if you only have guests for short periods each year.

2.12 A planning authority can take enforcement action where there has been a breach of planning control. This would occur if there is a material change of use of a property without planning permission. Enforcement action can be taken up to 10

years from the date of the breach of planning control. If you do not have the appropriate planning permission, enforcement action can require you to cease the use of a property for short-term lets.

2.13 It is possible to apply retrospectively for permission for a change of use or for a certificate of lawfulness of the use.

(d) Making a planning application

2.14 To submit a planning application you will need to complete the relevant application form and provide sufficient supporting information (e.g. plans, layouts) to accurately identify the property and show such things as the number of bedrooms, parking provision available on site, etc. You will also need to pay the relevant application fee. The fee for change of use from residential to short-term letting will be calculated on the basis of a material change of use of a building (at the time of writing planning application fees are set out in [the Town and Country Planning Fees for Applications\) \(Scotland\) Regulations 2022](#)).

2.15 You may be able to prepare the planning application yourself and may not require significant professional advice or input. Depending on your circumstances, you may need to conduct a search of title deeds and location plan of your property through Registers of Scotland. For more complicated applications, for example those which raise unusual or novel issues, it may be advisable to seek professional help.

2.16 On receipt of your application, the planning authority is required to send written notification to all neighbouring properties within 20 metres. The costs of this written notification are included in the application fee.

2.17 Where written notification cannot be done (i.e. there is no postal address for the neighbouring land to which the written notification can be delivered), a press advert will be required. Advert costs are not included in the application fee. You will be charged for this separately by the planning authority as and when required.

2.18 More detailed information on planning applications and the application process can be found in **Circular 3/2022**: [Development Management Procedures](#).

(e) Certificate of Lawfulness of Use or Development

2.19 A Certificate of Lawfulness of Use or Development (CLUD) is a mechanism through which you can apply to a planning authority for confirmation as to whether or not planning permission is required for a proposed or an existing use of the property. In essence, a CLUD is confirmation of the lawfulness of the development or change of use and so confirmation of that subsequent enforcement action would not be taken in respect of the continued use of the property. Anybody can seek a CLUD if they wish to ascertain whether a proposed or existing use is lawful.

2.20 There are two types of CLUD:

- A certificate of lawfulness of proposed use or development. This is applied for before the proposed use takes place. If your property is within a designated Short-Term Let control Area and falls under the provisions of section 26B changing the use to short-term letting requires planning permission and could not therefore qualify for a certificate of lawfulness of proposed development.
- A certificate of lawfulness of existing use or development. This option is available where the change of use has already taken place.

2.21 Where you intend to start a short-term let business and you are outwith a Short-Term Let Control Area, you might wish to seek a CLUD to establish whether or not the planning authority consider the proposed change to be material. The authority will then either:

- Grant the Certificate on the basis that the change is not material and planning permission is not required
- Determine that the change is material and requires planning permission.

2.22 You might be able to seek a certificate of lawfulness of existing use or development where:

- a) you have been using the property for short-term letting; and
- b) either:
 - (i) you believe there has been no material change of use; or
 - (ii) the use has been continuing for more than ten years and no enforcement action has been taken against the change of use in that time.

2.23 The information you need to provide in support of a CLUD application is different to that required for a planning application. In applying for a CLUD, you are submitting evidence that the use does not require a planning application. The planning authority will consider whether the evidence you provide is proof enough to justify a CLUD. Examples of evidence that might be used include:

- receipts for guests staying at the property;
- advertisements; and
- extracts from business accounts.

2.24 You may need to spend some time gathering information from your records and corroboration from other sources to prepare the evidence and your application.

2.25 A CLUD application does not need to be notified to neighbours or advertised.

2.26 Further information on CLUDs and the application process can be found in **Circular 10/2009: [Planning Enforcement](#)** (See Annex F in particular)

(f) How your application will be determined

2.27 The planning authority will determine planning applications in accordance with the relevant local development plan and taking account of any material planning considerations which may justify a departure from the development plan.

2.28 CLUD applications are determined on the basis of whether the evidence you submit is sufficient to demonstrate that the proposed or existing use does not require planning permission.

2.29 If your planning application or your application for a Certificate of Lawfulness of Use or Development (see section (e)) for a short-term let is granted, you will still need a licence in order to operate lawfully. Your license application may be refused pending a successful planning application.

(g) Appeals

2.30 You have the right to an appeal or review of any decision to refuse planning permission or to appeal a decision to refuse a certificate of lawful use (of either type). The decision letter issued by the planning authority will explain how an appeal can be made.

2.31 Further information on the appeals process can be found in **Circular 4/2013: [Planning Appeals](#)**.



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