

LICENSING

Short-Term Lets Frequently Asked Questions (FAQs)

We have collated some frequently asked questions which the Licensing Service has been asked on a regular basis on short term let licensing and provided responses to each one. Please note, the information below is for general information and guidance purposes only and does not constitute legal advice

Q1. What is the definition of a Short-term let?

The definition of a short-term let is set out in the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022. It states that a short-term let means the use of residential accommodation provided by a host in the course of business to a guest where:

- a. The guest does not use the accommodation as their only or principal home; and
- b. The short-term let is entered into for commercial consideration.

It is not a short-term let if:

- The accommodation is the guest's only or main home
- The guest is an immediate family member of the host
- The principal purpose is for the guest to live there while in education, including attending a school, college, further or higher educational institution
- The guest is an owner or part owner of the accommodation
- The principal purpose of the accommodation is for work or services by the guest for the host or their family
- The accommodation is classed as 'excluded accommodation' – details [here](#)
- The short-term let is classed as an 'excluded tenancy' – details [here](#)

Q2. What type of licence should I apply for?

The licensing scheme applies to the whole of Edinburgh and a separate licence will be needed for each STL premises. 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.

Under the terms of the legislation the Council must consider applications for four types of STL licence. These are:

- Home sharing

- Home Letting
- Home sharing and home letting; or
- Secondary Letting

Home sharing means using all or part of your own home for short-term lets whilst you are still living in the home.

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 or away for work-purposes but the property remains your home.

Secondary letting means the letting of a property, on a short-term basis, where you do not normally live. For example, a second home.

Dependent on the operation of the accommodation, operators will be required to apply for a licence which reflects their type of let.

Q3. When do I need to submit my application for a STL licence?

The table below sets out the key dates you need to be aware of in relation to submitting an application for a STL licence.

Date	Hosts operating a STL before 1 October 2022	Never operated a STL before 1 October 2022
1 October 2022	<ul style="list-style-type: none"> • You can continue to operate your premises as a STL - must comply with existing laws and regulations; • You must apply to the Licensing Authority where your premises is situated for a STL licence before 1 October 2023*; and • If your STL Licence application is refused by the Licensing Authority 	<ul style="list-style-type: none"> • Must not operate a STL without a licence being granted by the Licensing Authority where your premises is situated; • If you wish to operate a STL you must apply to the Licensing Authority in which your premises is situated;

	you must stop using your premises as a STL within 28 days of the decision, subject to appeal.	
1 October 2023* - see note below	<ul style="list-style-type: none"> • Can only operate without a licence if a STL licence application has been submitted to the Licensing Authority where your premises is situated, and it has not been refused; and • You must stop operating as a STL if your application is refused by the Licensing Authority, subject to appeal 	Same as above
1 January 2025	All hosts must have a STL licence.	Same as above

****Originally, the short-term lets legislation stated that all ‘existing hosts’ (those that had received guests in their short-term let accommodation prior to 1 October 2022) must have submitted a licence application before 1 April 2023.***

However, the Scottish Government the Scottish Parliament has now approved legislation, introduced by the Scottish Government, which extends the application deadline for existing hosts to 1 October 2023.

Q4. Do I need planning permission to operate my property as a short-term let?

The whole of the City of Edinburgh Council area has been designated as a Short-Term Let Control Area. The designation came into effect on 5 September 2022. This means that the change of use of an entire dwelling, that is not someone’s principal home, to a short-term let will require planning permission.

As a result, applications for a full STL licence for secondary letting will be required to evidence that they have applied for or obtained the relevant planning permission or

certificate of lawfulness when submitting their licence application. If this information is not available, the application will not be considered and returned.

For further information you can visit the Planning Team's webpage here or contact them by email at planning@edinburgh.gov.uk.

Q5. Do we require a STL licence if we operate premises which already have a licence to sell alcohol?

If you currently have a Premises Licence to sell alcohol, under section 17 of the Licensing (Scotland) Act 2005, you do not require a STL licence. You should be aware that the operating plan of your premises should state that you are using the premises to provide accommodation.

Q6. Do guest houses need to apply for a STL licence?

The Scottish Government have confirmed that guest houses are within the scope of the STL legislation and are required to apply for a STL licence. Under the relevant legislation, hotels are excluded from requiring an STL licence and a question has been raised on whether this extends to guest houses also. The Scottish Government have clarified that the exclusion will only apply if the following two conditions apply:

- a. **The Premises operate as a hotel** – this will be determined based on the facts and circumstances for each premise. The Scottish Government advise that such determination could involve considering the core description of the premises based on the information held with the Scottish Assessors Association (SAA), for their purposes of calculating non-domestic rates. The SAA issue practice notes for valuations which covers various types of premises: Practice note 20 (found at [Hotels-AccommodationSubjects_R2017_CPC20.pdf](#) (saa.gov.uk)) deals with the valuation of all categories of Hotels and subjects offering accommodation, such as Lodges, Aparthotels and Serviced Apartments; and Practice note 24, found at [R2017 Valuation of Guest Houses](#) (saa.gov.uk), deals with the valuation of all categories of guest houses. These practice notes apply different formulae for the valuation of hotels and guest houses and such records held by the SAA may be used alongside other facts and circumstances to determine if a premise can be classed as a hotel.
- b. **The Premises have planning permission granted for use as a hotel** – Guest houses and hotels fall within Class 7 of the Town and Country Planning (Use Classes) (Scotland) Order 1997). Any change of use between two uses within the same class is not considered a development and, as such, there is no requirement for planning permission for such change. The Scottish Government have suggested that an operator who has existing Use Class 7 consent in place to operate as a guest house

but who, in fact, operates as a hotel could apply for a Certificate of Lawfulness for such use as a hotel. More information and the application for such Certificate of Lawfulness with the Council can be found at the link [here](#).

If the premises do not meet the above conditions and they are not otherwise excluded by any of the criteria set out in [Schedule 1 of the Licensing Order](#), they will be within scope of the definition of an STL and they will require a licence.

Guest houses which have an alcohol premises licence which covers the footprint of the STL accommodation and which has accommodation listed within their operating plan (as mentioned above) do not require an STL licence, see question 5 above.

Q7. If I only operate my property as a STL for part of the year, do I still require a licence?

Yes. Unless one of the exemptions apply as set out in the legislation, then the property will require a STL licence, regardless of it only being offered for let for part of the year.

Q8. Under which circumstances, will the Council consider temporary exemption applications?

Under the terms of the 1982 Act, the Council can grant a temporary exemption to the requirement to have a STL licence. Under the terms of the 1982 Act, temporary exemptions can be issued for a period or periods not exceeding 6 weeks in any period of 12 months. The 6 weeks available for exemption can be requested for one block of 6 weeks or can be for lesser periods of time. If you know the dates that you require an exemption then please submit on one form (which is the most economical way) or if you wish to apply as and when required, then each application will be subject to a fee.

The Council will consider application for STL temporary exemptions in certain circumstances as set out below:

- a) During the Edinburgh Festival Fringe and Edinburgh International Festival
- b) During Edinburgh's Christmas & Hogmanay Festive Period
- c) For Major Sporting Events
- d) For Major International Events

Temporary exemptions will be issued for all types of STL letting and the Licensing Service will endeavour to determine temporary exemption applications as quickly as possible or within 3 months of the application being received. The application fees for a temporary exemption can be found [here](#).

Q9. How long will it take to process my application?

The time taken to process an application will vary and will largely depend on the following factors:

- a. The information and documentation provided with the application
- b. Whether an objection or representation is received in connection with the application
- c. The volume of application being processed at any one time

When the Licensing Service receives a complete application, a copy will be sent to Police Scotland and the Scottish Fire & Rescue Service, where applicable. Every application for a full STL licence has a 28 day statutory consultation timeframe as a minimum.

Under the terms of the legislation, the Council must determine an application for a STL licence within a maximum of:

- 9 months for an application by a new host/operator
- 12 months for an application by an existing host/operator

The Licensing Service will determine all home sharing, home letting or secondary letting STL applications within this timeframe and will endeavour to deal with applications as quickly as possible.

For those temporary licence or temporary exemption applications, the Licensing Service will endeavour to process applications in time for the intended start date, provided there is a minimum of 28 days-notice provided.

Q10. What happens if an objection is raised in connection with my application?

It is possible for any person to submit an objection or representation in relation to a short-term let licence application (excluding temporary licences and temporary exemptions). This may include Police Scotland or the Scottish Fire & Rescue Service who are statutory consultees in the licensing process, or potentially a member of the public or community council for example.

In some cases, the issue may be resolved by the applicant providing further information which would allow for a person to withdraw their objection or representation.

In such cases where the objection or representation remains unresolved the application will be considered at a hearing of the Licensing Sub-Committee, which consists of local Councillors. At the hearing, the Councillors will determine whether a licence can be granted or not after hearing from both the applicant and objector(s).

Q11 Do I need to get all the safety certification if I am only doing Home Sharing/Home Letting?

Scottish Government's legislation states that safety certification is a requirement for all short term lets therefore you must get certification to apply for a short term let. The

certification must cover all appliances that your guests have access to and all parts of the property which they have access to.

Q12. Where can I find further information on completing my Fire Safety Risk Assessment?

We accept risk assessments which have been completed by property owners and it is not necessary to pay to have an assessment completed (although you may wish to do this). We would strongly recommend that all applicants review the available guidance from the Scottish Fire & Rescue Service which is available [here](#). Further links are available here:

- [Fire Safety: guidance for the hospitality industry](#)
- [Fire Safety: Guidance for Existing Properties with Sleeping Accommodation](#)
- [Non-domestic fire safety](#)

The Licensing Service is unable to provide advice on fire risk or fire safety risk assessments.

Q13. Where can I find further information on completing a Legionella Risk Assessment?

The Licensing Service is unable to provide advice on the completion of Legionella Risk assessments. Information on Legionella and the associated risk-assessment from the Health & Safety Executive can be found [here](#).

Q14. Do I need to submit architectural drawing to meet the floor plans requirement in the application pack?

Hand drawn plans will be acceptable providing that they are reasonably to scale and adequately dimensioned. The floor plan must include as a minimum:

- Reference to the sizes of all rooms
- Fire escape routes
- Accommodation intended for guests with mobility impairment (if applicable)

For the Council and Scottish Fire & Rescue Service to undertake an assessment of the maximum number of guests that can be accommodated safely applicants must provide, as part of their application, floor plan(s) for their premises. Every effort should be made to submit clear and professional floor plans.

Q15. When is a STL licence not required?

The STL legislation, sets out the circumstances where a STL licence will not be required. The list of excluded accommodation can be found [here](#). The list of excluded tenancies can be found [here](#). Further information can be accessed via Scottish Government guidance [here](#).

Q16. What was the outcome of the Judicial Review of the Council's STL licensing policy?

Following adoption of the STL Licensing Policy by the Regulatory Committee on 29 September 2022, a number of businesses operating in that sector ('the petitioners') raised a legal challenge in the form of a judicial review (JR). The JR hearing took place on 11 and 12 May 2023 at the Court of Session, and on 8 June 2023 the Court issued its opinion. The Council was successful in defending large parts of the STL policy, however the petitioners were successful in challenging certain aspects of the policy.

Q17. What updates have been made to the STL Licensing Policy as a result of the Judicial Review?

The STL Licensing Policy has been amended in three areas and a summary of these changes, which take effect from 13 July 2023, is below:

Tenement/Shared Main Door Accommodation

The Council's STL licensing policy previously set out that there was a rebuttable presumption against the grant of STL licences for secondary letting in tenemental/shared main door accommodation. As a result, applicants in those circumstances would have been required to provide information to the Council as to why their applications should be an exception to policy.

As a result of the Court's decision, the rebuttable presumption against the grant of STL licences for secondary letting in tenemental / shared main door accommodation has been removed from the STL policy and will no longer apply. Such applications, including those already lodged with the Council, will be considered in line with the amended policy. Applicants will not be required to provide any additional information to demonstrate why they should be an exception to policy.

Temporary Licences for Secondary Letting

The STL licensing policy also previously set out that there would be a rebuttable presumption against temporary licences being granted in respect of secondary letting accommodation, similar to the circumstances set out above. In order to reflect the Court's decision, the rebuttable presumption against the grant of temporary licences for secondary let accommodation has also been removed from the policy. Operators can now apply for temporary licences in such circumstances. Any such application will be considered against the amended policy and the terms of the legislation.

Licence Condition STL9

Another amendment to the STL licensing policy is in relation to an additional licence condition which was previously applicable to all secondary letting STL licences (STL9) and stated:

“STL9 - For secondary lets only, the licence holder must ensure that the bedrooms living room and hallway in the premises are covered by a suitable floor covering such as a carpet or similar floor covering.”

Following the outcome of the Judicial Review, this additional licence condition has been removed from the policy and will not be applied to all STL licences which are granted by the Council. Where a condition regarding carpets or similar floor covering is considered by the Council to be necessary this will be determined on a case by case basis.

Lastly, a section setting out how STL renewal applications will be dealt with has been added to the policy.

Q18. Does the outcome of the Judicial Review mean I don't have to apply for a STL licence?

The requirement to apply for a STL licence, in line with the key dates set out in legislation, is set down by legislation. It is unaffected by the outcome of the Judicial Review and remains in place for all four types of short-term let:

- (i) secondary letting,
- (ii) home letting,
- (iii) home sharing and
- (iv) home letting and home sharing.

This means that existing hosts and operators have until **1 October 2023** to apply for a licence in order to continue operating whilst your application is considered. You are an existing host or operator if you have already been using your property to provide short term lets prior to 1 October 2022. 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 and you should apply now.

Q19. Are there any changes to Home Letting and/or Home Sharing Licences or Temporary Exemptions because of the Judicial Review?

The outcome of the judicial review has not changed the Council's policy concerning the types of short-term let known as home sharing and/or home letting, nor the policy concerning STL temporary exemptions. For the avoidance of doubt the requirement to obtain a licence for all types of short-term let arises from the legislation itself, which the Council cannot alter.

Q20. Are there any changes to the Planning System for STLs as a result of the outcome of the Judicial Review?

The Council's planning controls on STLs were not challenged as part of the Judicial Review and the judgement has no effect on them.

Q21. How will renewal applications for STL licences be dealt with?

Under the 1982 Act, if an application for a STL licence renewal application has been made to the Council before the expiry date of the current licence, the licence will continue in effect until a final decision has been made by the Council on the renewal application. If a renewal application is refused by the Council, the existing licence will remain in effect for a period of 28 days from the date of the decision. Where an appeal has been lodged with the sheriff clerk within 28 days from the date of the decision, the existing licence will remain in effect until such time as the appeal has been determined by the Sheriff Court. The process for applying for a renewal of a STL licence is the same as when applying for a new STL licence, as set out in the Council's STL policy. Further application guidance is available on the Licensing Service webpage. As with new applications, the Council requires to consider applications for renewal of licences taking into consideration the statutory grounds for refusal of a licence set out in the 1982 Act. However, an existing STL licence is likely to be renewed unless there has been a change of circumstances since the last determination of the licence. Such circumstances could include any changes to STL regulation or the Council's STL licencing policy; enforcement action by the Council in respect of the existing licence; and any objections or representations received regarding the renewal application during the statutory consultation period under the 1982 Act. Where such circumstances apply then the renewal application maybe referred to a meeting of the Licensing Sub-Committee for determination. There will be an opportunity to address the Licensing Sub-Committee on the terms of the renewal application before a decision is made.

Q22 - Does home swapping or home exchanges require a STL licence?

Under the terms of the STL legislation a reciprocal home swap or exchange is considered as home letting regardless of whether or not any fees are paid as part of the arrangement. As a result of the legislation, the reciprocal use of accommodation falls under the definition of a commercial consideration, as it is regarded as a benefit in kind, and thus triggers the requirement for a STL licence to be obtained. As this legislation was introduced by the Scottish Government and approved the Scottish Parliament, there is no discretion available to the Council to exclude certain hosts or types of let from those identified as requiring a licence.

Q23 - Can I transfer my licence if I sell my property?

Under the terms of the legislation, STL licences are not transferrable and are personal to the operator/host. Accordingly, a new host/operator will have to apply for their own licence.

It is worth noting that the legislation does not require that an applicant for a STL licence be an owner of the property. Therefore, with the written consent of the existing owner, a prospective purchaser may wish to consider lodging a temporary STL application along with a full STL licence application in advance of any property transaction being concluded. In such circumstances, the Council would look to consider the temporary application as quickly as possible and if granted, the temporary licence would continue to have effect until the full application is determined. This would allow the STL to continue operating pending the conclusion of the property transaction and determination of the full application. It is strongly recommended that applicants in such circumstances obtain their own legal advice prior to lodging any applications with the Council.

Q24 - How can I report an unlicensed or problem short-term let?

Under the terms of the short-term let legislation approved by the Scottish Parliament, existing hosts and operators of STL accommodation have until 1 October 2023 to apply for a licence in order to continue operating whilst their application is considered. You are an existing host or operator if you have already been using your property to provide short term lets prior to 1 October 2022. 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.

It is worth noting that the Council has no powers to regulate the fees charged by private business, including STL operators, for use of their accommodation and/or services.

Complaints of unlicensed STL properties can be reported by email to PRSEnforcement@edinburgh.gov.uk or via the link below.

<https://www.edinburgh.gov.uk/private-housing/report-problem-short-term-let>

Q25 - I operate a self-catering unit which is annexed to my own home. Is this considered home sharing / home letting or secondary letting?

A. If this unit is capable of being let out separate to the main house i.e. it has its own entrance and guests are not sharing household facilities such as cooking, toilet or personal washing facilities with the host, then this will be secondary letting. If this unit does not have its own entrance and shares household facilities with the main house, it will likely be home sharing / home letting.

