

Licence for Short-term Lets – Guidance

Orkney Islands Council

Civic Government (Scotland) Act 1982

These notes are for guidance only and are not an authoritative statement of the procedures and provisions relating to applications for licences and licences issued under the Civic Government (Scotland) Act 1982 (the Act). Any person who requires further information should consult the Head of Legal and Governance, as undernoted, or a solicitor.

1. Introduction	
1.1.	The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 amended the Civic Government (Scotland) Act 1982 to require short-term lets to be licensed. Providers and licensing authorities have no discretion – the activity must be licensed. The Act and the Order are published at https://www.legislation.gov.uk/ . Scottish Government information about licensing of short-term lets is published at https://www.gov.scot/publications/short-term-lets/ . The Scottish Government's Guidance for (1) Hosts and Operators is published at https://www.gov.scot/publications/short-term-lets-scotland-licensing-scheme-part-1-guidance-hosts-operators-3/ and for (2) Licensing Authorities, Letting Agencies and Platforms is published at https://www.gov.scot/publications/short-term-lets-scotland-licensing-scheme-part-2-supplementary-guidance-licensing-authorities-letting-agencies-platforms-3/ . This Guidance will refer to “the Order” and “the Act”.
1.2.	The Order sets out information about types of short-term let which need to be licensed and those which do not, as well as definitions of words and terms used in the Order and the Act. The information is set out in Annex A attached to this Guidance – please refer to it before continuing to read this document.
1.3.	From 1 October 2022, new hosts and operators 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. If you were already using your property to provide short-term lets before 1 October 2022, then you had until 30 September 2023 to apply for a licence and you can operate before you have a licence by continuing to take bookings and receiving guests while your application is processed.
2. Temporary Exemptions.	
2.1.	Section 1A of Schedule 1 of the Act requires licensing authorities to publish a statement of policy which will be applied regarding temporary exemptions from the requirement to obtain a short-term let licence. The Council's Policy is published at Short Term Lets (orkney.gov.uk)

3. Mandatory and Additional Standard Conditions.	
3.1.	The Act imposes mandatory conditions for a short-term let licence.
3.2.	The Council may also attach reasonable additional conditions to short-term let licences, by adopting standard conditions, which must be published. The Council has adopted an additional standard condition requiring provision of specific gas safety information.
3.3.	The mandatory and additional standard conditions are set out in Annex B attached to this Guidance. The licence holder will be required to comply with these conditions which will form part of the licence when granted.
4. Floor Plans and Fire Safety Checklist	
4.1.	In order for the Council and Scottish Fire and 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, indicating room sizes, fire escape routes, accommodation intended for guests with mobility impairment and other information. The Council's requirements for these plans are set out in Annex C attached to this Guidance.
4.2.	Application forms must be accompanied by a completed Fire Safety Checklist set out by the Scottish Fire and Rescue Service. The Fire Safety Checklist is published as a Related Download at Short Term Lets (orkney.gov.uk) as an interactive PDF.
5. Declarations by Owners of Short-term Let Premises	
5.1.	The Act requires that where the applicant is not the sole owner of the premises, or the land on which the premises are located, s/he must provide: <ul style="list-style-type: none"> • the name and address of all owners and • a declaration from all owners, or persons authorised to act on their behalf, that they consent to the application.
5.2.	Where the applicant is not the sole owner of the premises, the form of Declaration attached at Annex D to this Guidance must be completed by all other owners. Where a Declaration is completed by someone else on behalf of an owner, the person must provide evidence of their authorisation to act on behalf of the owner.
6. Planning Permission	
6.1.	The Order sets out that processing of applications from existing hosts received between 1 October 2022 and 30 September 2023 can be paused where the host requires planning permission to operate the premises as submitted.
6.2.	Applications will be passed to the Council's Planning Service for screening. If the appropriate lawful status of the premises is confirmed by the Planning Service, that removes any planning impediment to progression of the application.

6.3.	If the premises do not have the necessary planning permission/status, applications can be suspended for a period of 3 months. The period starts from the date of the notice by the Licensing Service to the applicant. During that period, the applicant must submit a valid application for planning permission or a certificate of lawfulness of use or development and must notify the Licensing Service that the application has been validated.
6.4.	<p>The licensing authority may decide not to consider the application for licence in the following circumstances, where it has notified the applicant in accordance with paragraph 6.3 above:</p> <ul style="list-style-type: none"> • the applicant does not submit a valid application for planning permission or a certificate of lawfulness of use or development within the 3 months period or • the planning authority refuses such an application and the applicant does not appeal or seek review of that refusal.
6.5.	The Act provides that a licensing authority may, within 21 days of receipt of an application for a licence, refuse to consider the application where it considers that use of the premises for a short-term let would constitute a breach of planning control. The licensing authority must, within 7 days of deciding to refuse to consider an application for a short-term let licence on this ground, serve notice of its decision on the applicant, the planning authority and the chief constable, giving the reason for refusing to consider the application. If the applicant makes a further application for a licence in relation to the premises concerned within 28 days of obtaining planning permission or a certificate of lawfulness of use or development in respect of the use of the premises for short-term lets, no fee may be charged by the licensing authority.
7. Determination of and Duration of Licences.	
7.1.	A licence will normally be issued after the elapse of 42 days from receipt of a valid application. In certain circumstances, for example where objections have been received, applications can take considerably longer to be determined. Further information about statutory processing timescales is provided at paragraph 15.4 of this Guidance. A licence shall normally remain in force, unless previously suspended or revoked, for a period of three years. The Council can also determine a shorter period in any case, dependent upon the circumstances. Application fees will not be refunded if a shorter period is determined. The licence is not transferable.
8. Licence to be Retained.	
8.1.	The licence must not be altered, erased or defaced in any way, must be kept clean and legible and must not be lent to or used by any other person. Should the licence be lost or become defaced or illegible the licence holder shall obtain a replacement from the Council on payment of the appropriate fee. The licence holder shall produce his/her licence within 5 days of being requested to do so by an officer of Police Scotland, the Scottish Fire and Rescue Service or the Council.

9. Return of Licence.	
9.1.	<p>A licence holder shall deliver his/her licence to the Council:</p> <ul style="list-style-type: none"> • Upon ceasing to operate a short-term let. • Within 7 days of receiving notice of the coming into effect of a decision of the Council to suspend, revoke or vary the terms of the licence, or the decision of a Court to revoke it.
10. Notification of Convictions or Material Change of Circumstances.	
10.1.	<p>The licence holder shall notify the Council of any conviction or material change within 14 days of the event. "Material change" means any change of circumstances affecting the licence holder (for example, change of his/her name or address) or the activity to which the licence relates, including any particulars referred to in the application for grant or latest application for renewal of the licence. If in doubt, notify the Council of any changes.</p>
11. Material Change in Premises.	
11.1.	<p>No material change can be made in premises without prior consent from the Council in relation to the short-term let licence. An application for material change should be made in similar terms to an application for a licence.</p>
12. Making an Application – the Application Form, Other Documents and Fees.	
12.1.	<p>Application fees are published as a Related Download at Short Term Lets (orkney.gov.uk) and are non-refundable.</p>
12.2.	<p>You can apply online or obtain an application form at Short Term Lets (orkney.gov.uk) or from:</p> <ul style="list-style-type: none"> • Email: shortletslicensing@orkney.gov.uk • Telephone 01856873535, extensions 2246, 2232 or 2229 (voicemail available). • Head of Legal and Governance, Council Offices, School Place, Kirkwall, KW15 1NY.
12.3.	<p>Applications must be submitted online or by email to shortletslicensing@orkney.gov.uk or lodged with the Head of Legal and Governance, Orkney Islands Council at the address above no later than 6 weeks before the anticipated first day of the commencement of the activity (for new operators) and no later than 30 September 2023 (for existing operators of premises already in use as a short-term let prior to 1 October 2022).</p>
12.4.	<p>Paper application forms must be completed legibly in block capital letters in black ink or typed. Question 1 or 2 and all other questions must be answered.</p>
12.5.	<p>Application forms must be accompanied by a completed Checklist, which is attached to this Guidance at Annex E. For online applications, the Checklist will form part of the application process.</p>

12.6.	A Site Public Notice (Annex F attached to this Guidance) must be displayed at the premises for a continuous period of 21 days. This should not be displayed until the applicant has received confirmation from the Council that the application is satisfactory and can be processed. The Council will agree a date with the applicant for display of a Site Notice.
12.7.	A Site Notice and a Compliance Notice (Annex G attached to this Guidance) may be obtained online at <u>Short Term Lets (orkney.gov.uk)</u> or from the address above and must be returned to that address after 21 days to certify that the display requirement has been complied with. If the Site Notice is not displayed or the Compliance Notice is not returned, the Council may require the applicant to display the notice again for a period of 21 days from a specified date; may advertise notice of the application on its website; and may advertise such notice in the local press to allow representations and objections to be made. If any of these steps are required, any decision on the application shall be delayed.
12.8.	The Compliance Notice (Annex G attached to this Guidance) should be returned to the Head of Legal and Governance, Council Offices, School Place, Kirkwall, KW15 1NY as soon as possible 21 days after the date from which the Site Notice is first displayed in accordance with paragraph 12.6 above, and preferably within 25 days from that date.
Previous Convictions.	
12.9.	Any person, including any business entity or any individual named on the licence application form in any capacity, must declare convictions, subject to the Rehabilitation of Offenders Act 1974. This legislation is available at <u>www.legislation.gov.uk</u> . If any person is in any doubt as to whether they require to declare convictions, they must obtain independent legal advice. If any person, including any business entity or any individual named on the licence application form in any capacity, wishes to declare that they have no convictions, the name of the business entity, as well as all individuals, must be printed at the question on the application form, followed by the answer "None". All names must be accounted for. The question cannot be left blank in relation to any business entity or individual named on the application form. If any business entity or individual named on the application form does not declare something which should have been declared, they may be prosecuted for failure to declare and this will affect the processing time and procedure for the application.
13. Making an Application: How to Submit a Valid Application.	
13.1.	<p>Applicants must submit the following documentation:</p> <ul style="list-style-type: none"> • Completed application form (refer to paragraph 12.2 above). • Floor plans (refer to paragraph 4 above and Annex C). • Completed Fire Safety Checklist (refer to paragraph 4.2 above). • Completed Declarations by owners of the short-term let premises (refer to paragraph 5 above and Annex D). • A completed Checklist attached to this Guidance (refer to paragraph 12.5 above and Annex E). • Application fee (refer to paragraph 12.1 above). <p>Incomplete applications cannot be accepted for processing.</p>

13.2.	You can apply online by clicking on the appropriate button at Short Term Lets (orkney.gov.uk) The online application form also allows you to upload the required supporting documentation. Once you have completed the online application you will be taken to the secure payment page where you will be able to pay the application fee.
13.3.	If for any reason you are unable to apply online, you can complete a paper application and submit this, together with required supporting documentation, by email to shortletslicensing@orkney.gov.uk . Payment of the application fee can be made by card by phoning 01856 873535 and asking to make a card payment for an application for a Short-term Lets licence. The Customer Services advisor will need a code to accept the payment and you must quote the following code: R39 021 000 740 00.
13.4.	Alternatively, you can submit a completed paper application form, together with required supporting documentation, by post to the Head of Legal and Governance at the address shown at paragraph 12.2 above. The correct application fee should be enclosed and can be made by cheque payable to Orkney Islands Council. If you wish to pay the application fee by cash, you must attend the Customer Services area at the Council Offices to deliver your completed application form, together with required supporting documentation, and quote the code number detailed above to the Customer Services advisor.
13.5.	Applications must be submitted online, by email or by post, and will be checked by the Licensing Service who will advise if any further information is required. Applicants should not attend at Council offices and expect to speak with a member of the Licensing Team unless a prior appointment has been made.
14. Temporary Licences.	
14.1.	Temporary licences may be granted for a period not exceeding 6 weeks. Applications for temporary licences must be made in accordance with the Guidance provided at sections 11 and 12 above. However, no Site Notice or Compliance Notice is required.
15. Processing the Application.	
15.1.	Only complete applications, including all necessary documentation and fees, can be accepted for processing. Incomplete applications shall be returned to the applicant.
15.2.	Applications will be referred to the following for comment: <ul style="list-style-type: none"> • the Council's services in relation to Environmental Health, Building Standards, Planning and any other relevant service, • Police Scotland and • the Scottish Fire and Rescue Service.
15.3.	Premises may be inspected by the consultees identified at paragraph 15.2 above. During inspections, applicants may be asked to exhibit documentation specified in the Checklist attached to this Guidance at Annex E.
15.4.	Applications received from existing operators between 1 October 2022 and 30 September 2023 must be determined by the Council within 12 months. All other applications must be considered within 3 months of being lodged

	and the Council must reach a decision on them within 9 months of being lodged.
15.5.	If an application is granted, the licence will be issued.
15.6.	If, during the processing of an application, the Council receives any objection or representation, a copy will be sent to the applicant. The application and the objection or representation will then be referred to a scheduled meeting of the Licensing Committee. The applicant will be invited to attend the meeting and given the opportunity to address the Committee. The Committee meets 8 times each year, usually during January, March, April, June, July, September, October and December.
15.7.	Information about the members of the Committee, together with agendas, reports and Minutes relating to meetings of the Committee, are published through links from the following webpage: Committees
15.8.	If the application is refused, or granted conditionally, the applicant is entitled to ask the Council within 21 days to give reasons for such refusal, or the imposition of such conditions, and thereafter is entitled to appeal to the Sheriff against the decision on various grounds. Applicants should seek the advice of a solicitor if matters should get to that stage.
16. Prior Refusal.	
16.1.	If applicants have applied for and been refused a short-term let licence, unless their circumstances have altered, any subsequent applications will be unlikely to be granted.
16.2.	If refused, applicants cannot apply for the same kind of licence in respect of the same activity or for the same premises within one year of that refusal, unless there has been a material change in circumstances.
17. Offences.	
17.1.	<p>The following are criminal offences liable, on summary conviction, to a fine:</p> <ul style="list-style-type: none"> • Carrying on an activity for which a licence under the Civic Government (Scotland) Act 1982 is required without such a licence. Note that this does not apply to existing operators who make an application between 1 October 2022 and 30 September 2023, even if the application is still being considered by the Council. • Failing to comply with a condition of a licence. • Making a false statement when filling in the application form. • Failing to notify the Council of a material change in the circumstances of a licensee. • Failing to surrender the licence (1) after it has been suspended, revoked or varied or (2) when the licensee has given up the activity to which it relates. <p>The above list is not exhaustive and reference should be made to the Civic Government (Scotland) Act 1982 for all offences under the Act.</p>

18. Data Protection	
18.1.	The information provided on application forms will be used by the Council to enable decisions to be made on applications. The Council is required to collect the information in terms of legislation. Applicants' information will be shared with a number of agencies which the Council is obliged to consult before making decisions on applications.
18.2.	The Council is obliged to make available some information submitted on application forms. The Council is required to publish a Register of short-term let applications on its website and will do so at Short Term Lets (orkney.gov.uk)
18.3.	The Council has published a guide to your rights under Data Protection legislation and how you can exercise these. This information is available on the Council's website at Data Protection Policy or can be requested by contacting the Council directly.
18.4.	Information about how the Council will process your personal information is available on the Council's website at https://www.orkney.gov.uk/Online-Services/privacy.htm .

Version: 2024-11-21.

Updated: 2022-10-05 – Section 6 Planning Permission; Annexes C and E.

Updated: 2022-10-12 – Section 4 Fire Safety Checklist; Section 13.1 How to Submit a Valid Application; Annex E.

Updated: 2022-10-14 – Annex E – EPC Rating information.

Updated: 2023-03-02 – Sections 1.3, 6.1, 12.3, 15.4, 17.1 – extension to application deadline for existing hosts; Annex C – to show means of detection or warning of carbon monoxide.

Updated: 2023-06-30 – Section 1.1, weblinks to Scottish Government Guidance; Annex C – to advise that suggested scales are not prescriptive and are for guidance only.

Updated: 2023-10-12 – Section 12.6 and Annex F – Site Public Notice.

Updated: 2023-12-14 – Section 3, Annex B and Annex E – additional standard licence condition to require provision of specific gas safety information.

Updated: 2024-03-01 – Annex E – Repairing Standard applies to all STL premises.

Annex A

Part 1 – Licences for Short-term Lets – Interpretation.

1.	Interpretation – What do words and terms mean?
1.	The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (the Order) came into force on 1 March 2022.
2.	In the Order:
2.1.	“1982 Act” means the Civic Government (Scotland) Act 1982,
	“accommodation” includes the whole or any part of a premises,
	“commercial consideration” includes:
(a)	money,
(b)	a benefit in kind (such as provision of a service, or reciprocal use of accommodation),
	“excluded accommodation” means accommodation described in Part 2 below,
	“excluded tenancy” means a tenancy described in Part 2 below,
	“guest” means a person who occupies accommodation under a short-term let,
	“host” means a person who is the owner, tenant, or person who otherwise exercises control over occupation and use, of the accommodation which is the subject of a short-term let,
	“unique licence number” means a unique number which:
(a)	is assigned to each application or licence, and
(b)	contains a number or letters which:
(i)	identifies the licensing authority, and
(ii)	is used in every licence number assigned by the licensing authority.
2.2.	Where the accommodation is let to more than one person under a short-term let, references in the Order to the guest are to any one of those persons.
2.3.	For the purposes of section 3 immediately below, a person (“A”) is an immediate family member of another person (“B”) if A is:
(a)	in a qualifying relationship with B,
(b)	a qualifying relative of B,
(c)	a qualifying relative of a person who is in a qualifying relationship with B, or
(d)	in a qualifying relationship with a qualifying relative of B.
2.4.	For the purposes of paragraph 2.3 above:
(a)	two people are in a qualifying relationship with one another if they are:
(i)	married to each other,
(ii)	in a civil partnership with each other, or

(iii)	living together as though they were married,
(b)	a “qualifying relative” means a parent, grandparent, child, grandchild, foster child or sibling,
(c)	two people are to be regarded as siblings if they have at least one parent in common,
(d)	a person’s stepchild is to be regarded as the person’s child,
(e)	a person (“C”) is to be regarded as the child of another person (“D”), if C is being or has been treated by D as D’s child.
3.1.	“Short-term let” means the use of residential accommodation provided by a host in the course of business to a guest, where all of the following criteria are met:
(a)	the guest does not use the accommodation as their only or principal home,
(b)	the short-term let is entered into for commercial consideration,
(c)	the guest is not:
(i)	an immediate family member of the host,
(ii)	sharing the accommodation with the host for the principal purpose of advancing the guest’s education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or
(iii)	an owner or part-owner of the accommodation,
(d)	the accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host or to another member of the host’s household,
(e)	the accommodation is not excluded accommodation (refer to Part 2 below), and
(f)	the short-term let does not constitute an excluded tenancy (refer to Part 2 below),
3.2.	“Short-term let licence” means a licence granted for the activity of the provision of a short-term let on or after 1 October 2022.
4.1.	The Order designates the activity specified in paragraph 4.2 as an activity for which a licence under Part 1 of the 1982 Act is required.
4.2.	The activity referred to in paragraph 4.1 is a short-term let on or after 1 October 2022.
4.3.	Accommodation that is on a single premises requires only one short-term let licence.

Part 2 – Licences for Short-term Lets – Interpretation – Excluded accommodation and tenancies

1.	Excluded accommodation means accommodation which is, or is part of:
(a)	an aparthotel,
(b)	premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect and where the provision of accommodation is an activity listed in the operating plan as defined in section 20(4) of that Act,
(c)	a hotel which has planning permission granted for use as a hotel,
(d)	a hostel,
(e)	residential accommodation where personal care is provided to residents,
(f)	a hospital or nursing home,
(g)	a residential school, college or training centre,
(h)	secure residential accommodation (including a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation, or accommodation used as military barracks),
(i)	a refuge,
(j)	student accommodation,
(k)	accommodation which otherwise requires a licence for use for hire for overnight stays,
(l)	accommodation which is provided by the guest,
(m)	accommodation which is capable, without modification, of transporting guests to another location,
(n)	a bothy, or
(o)	accommodation owned by an employer and provided to an employee in terms of a contract of employment or for the better performance of the employee's duties.
2.	An excluded tenancy means a tenancy which falls within any of the following definitions:
(a)	a protected tenancy (within the meaning of section 1 of the Rent (Scotland) Act 1984,
(b)	an assured tenancy (within the meaning of section 12 of the 1988 Act),
(c)	a short assured tenancy (within the meaning of section 32 of the 1988 Act),
(d)	a tenancy of a croft (within the meaning of section 3 the 1993 Act),
(e)	a tenancy of a holding situated outwith the crofting counties (within the meaning of section 61 of the 1993 Act) to which any provisions of the Small Landholders (Scotland) Acts, 1886 to 1931 applies,
(f)	a Scottish secure tenancy (within the meaning of section 11 of the 2001 Act),

(g)	a short Scottish secure tenancy (within the meaning of section 34 of the 2001 Act),
(h)	a 1991 Act tenancy (within the meaning of section 1(4) of the 2003 Act),
(i)	a limited duration tenancy (within the meaning of section 93 of the 2003 Act),
(j)	a modern limited duration tenancy (within the meaning of section 5A of the 2003 Act),
(k)	a short limited duration tenancy (within the meaning of section 4 of the 2003 Act),
(l)	a tenancy under a lease under which agricultural land is let for the purpose of its being used only for grazing or mowing during some specified period of the year (as described in section 3 of the 2003 Act),
(m)	a private residential tenancy (within the meaning of section 1 of the 2016 Act), or
(n)	a student residential tenancy.
3(1).	“the 1988 Act” means the Housing (Scotland) Act 1988,
	“the 1993 Act” means the Crofters (Scotland) Act 1993,
	“the 2001 Act” means the Housing (Scotland) Act 2001,
	“the 2003 Act” means the Agricultural Holdings (Scotland) Act 2003,
	“the 2016 Act” means the Private Housing (Tenancies) (Scotland) Act 2016,
	“aparthotel” means a residential building containing serviced apartments where:
(a)	the whole building is owned by the same person,
(b)	a minimum number of 5 serviced apartments are managed and operated as a single business,
(c)	the building has a shared entrance for the serviced apartments, and
(d)	the serviced apartments do not share an entrance with any other flat or residential unit within the building,
	“bothy” means a building of no more than two storeys which:
(a)	does not have any form of:
(i)	mains electricity,
(ii)	piped fuel supply, and
(iii)	piped mains water supply,
(b)	is 100 metres or more from the nearest public road (within the meaning of section 151 of the Roads (Scotland) Act 1984), and
(c)	is 100 metres or more from the nearest habitable building,
	“hostel” means a building, other than a dwellinghouse, in which there is provided for persons generally or for any class or classes of persons:
(a)	residential accommodation, and
(b)	either or both:

(i)	meals,
(ii)	cooking facilities.
	“personal care” has the same meaning as in paragraph 20 of schedule 12 of the Public Services Reform (Scotland) Act 2010,
	“refuge” means accommodation used wholly or mainly for persons who have been subject to any incident or pattern of incidents, of:
(a)	controlling, coercive or threatening behaviour,
(b)	physical violence,
(c)	abuse of any other description (whether physical or mental in nature), or
(d)	threats of any such violence or abuse.
	“serviced apartment” means a flat or residential unit in respect of which:
(a)	services are provided to guests (such as housekeeping, a telephone desk, reception, or laundry),
(b)	each flat or unit contains its own washing, cooking and dining facilities separate from each of the other flats or units, and
(c)	there is a management system in place to prevent anti-social behaviour and to impose limits in respect of the maximum occupancy of the flats or units,
	“student residential tenancy” means a tenancy:
(a)	the purpose of which is to confer on the tenant the right to occupy the let property while the tenant is a student, and
(b)	to which sub-paragraph (2) or (3) of paragraph 5 of schedule 1 (tenancies which cannot be private residential tenancies) of the 2016 Act applies,
	“student accommodation” means residential accommodation which has been built or converted predominantly for the purpose of being provided to students.
3(2).	In paragraph 1(k), “licence” does not include an HMO licence granted under section 129 of the Housing (Scotland) Act 2006.

Annex B

Licences for Short-term Lets – Mandatory and Additional Standard Licence Conditions.

Article 6 and Schedule 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022.	
Agents	
1.	Only those named as a holder of the licence can carry out the day-to-day management of the short-term let of the premises.
Type of licence	
2.	The holder of the licence may only offer the type of short-term let for which the licence has been granted.
Fire safety	
3.	The holder of the licence must ensure the premises has satisfactory equipment installed for detecting, and for giving warning of:
	(a) fire or suspected fire, and
	(b) the presence of carbon monoxide in a concentration that is hazardous to health.
4.	The holder of the licence must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988.
Gas safety	
5.	Where the premises has a gas supply:
	(a) the holder of the licence must arrange for an annual gas safety inspection of all gas pipes, flues and appliances in the premises,
	(b) if, after an annual inspection, any appliance does not meet the required safety standard, the holder of the licence must not allow a short-term let of the premises until the works necessary to bring the appliance to the required safety standard have been carried out.
Electrical safety	
6.	Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the holder of the licence must:
	(a) ensure that any electrical fittings and items are in: (i) a reasonable state of repair, and (ii) proper and safe working order,
	(b) arrange for an electrical safety inspection to be carried out by a competent person at least every five years or more frequently if directed by the competent person,
	(c) ensure that, following an electrical safety inspection, the competent person produces an Electrical Installation Condition Report on any fixed installations,

	(d)	arrange for a competent person to: (i) produce a Portable Appliance Testing Report on moveable appliances to which a guest has access, and (ii) date label and sign all moveable appliances which have been inspected.
7.		In determining who is competent, the holder of the licence must have regard to guidance issued by the Scottish Ministers under section 19B(4) of the Housing (Scotland) Act 2006.
Water safety: private water supplies		
8.		Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.
Water safety: legionella		
9.		The holder of the licence must assess the risk from exposure to legionella within the premises, whether or not the premises are served by a private water supply.
Safety and repair standards		
10.	(1)	The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.
	(2)	Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the holder of the licence must ensure that the premises meet the repairing standard.
Maximum Occupancy		
11.		The licence holder must ensure that the number of guests residing on the premises does not exceed the number specified in the licence.
Information to be displayed		
12.		The holder of the licence must make the following information available within the premises in a place where it is accessible to all guests:
	(a)	a certified copy of the licence and the licence conditions,
	(b)	fire, gas and electrical safety information,
	(c)	details of how to summon the assistance of emergency services,
	(d)	a copy of the gas safety report,
	(e)	a copy of the Electrical Installation Condition Report, and
	(f)	a copy of the Portable Appliance Testing Report.
Planning Permission		
13.		Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”), the holder of the licence must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either:

	(a)	an application has been made for planning permission under the 1997 Act and has not yet been determined, or
	(b)	planning permission under the 1997 Act is in force.
Listings		
14.	(1)	The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises includes: (a) the licence number, and (b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008.
	(2)	The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises is consistent with the terms of the short-term let licence.
Insurance		
15.	The holder of the licence must ensure that there is in place for the premises:	
	(a)	valid buildings insurance for the duration of the licence, and
	(b)	valid public liability insurance for the duration of each short-term let agreement.
Payment of fees		
16.	The holder of the licence must pay any fees due to the licensing authority in respect of the licence on demand.	
False or misleading information		
17.	The holder of the licence must not provide any false or misleading information to the licensing authority.	
Interpretation		
18.	In these Conditions:	
	<ul style="list-style-type: none"> • “Electrical Installation Condition Report” means a report containing the following information: <ul style="list-style-type: none"> (a) the date on which the inspection was carried out, (b) the address of the premises inspected, (c) the name, address and relevant qualifications of the person who carried out the inspection, (d) a description, and the location, of each installation, fixture, fitting and appliance inspected, (e) any defect identified, (f) any action taken to remedy a defect, • “Energy Performance Certificate” means a certificate which complies with regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008, 	

•	“gas safety report” means a report containing the following information:	
	(a)	the date on which the appliance or flue was checked,
	(b)	the address of the premises at which the appliance or flue is installed,
	(c)	a description of and the location of each appliance or flue checked,
	(d)	any safety defect identified,
	(e)	any remedial action taken,
	(f)	confirmation that the check undertaken complies with the requirements of an examination of: (i) the effectiveness of any flue, (ii) the supply of combustion air, (iii) subject to head (iv), its operating pressure or heat input or, where necessary, both, (iv) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance, (v) its operation so as to ensure its safe functioning,
	(g)	the name and signature of the individual carrying out the check, and
	(h)	the registration number with which that individual, or that individual’s employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998.
•	“holder of the licence” means any person to whom a short-term let licence has been granted or jointly granted,	
•	“home letting” means a short-term let consisting of the entering into of an agreement for the use, while the host is absent, of accommodation which is, or is part of, the host’s only or principal home,	
•	“home sharing” means a short-term let consisting of the entering into of an agreement for the use, while the host is present, of accommodation which is, or is part of, the host’s only or principal home,	
•	“premises” means the accommodation which is the subject of an application for a short-term licence or the subject of a short-term licence,	
•	“repairing standard” means the steps which the holder of the licence is required to take to comply with the obligations placed on the holder by Chapter 4 of Part 1 of the Housing (Scotland) Act 2006,	
•	“secondary letting” means a short-term let consisting of the entering into of an agreement for the use of accommodation which is not, or is not part of, the licence holder’s only or principal home,	
•	“short-term let” has the same meaning as in article 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022,	
•	“short-term let licence” means a licence for a short-term let, and	
•	“type of short-term let” means one of the following purposes:	

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

Additional Standard Condition relating to provision of specific gas safety information.

19.	The holder of the licence must provide specific gas safety information to guests, namely:	
	(i)	written advice and guidance on what to do in the event of a carbon monoxide alarm sounding, and
	(ii)	if there is a mobile gas cabinet heater in the accommodation, the manufacturer's instruction manual should be provided along with a warning that any such appliance should not be moved.

Annex C

Licences for Short-term Lets – Floor Plans.

Scottish Government Guidance advises that in order for licensing authorities and the Scottish Fire and Rescue Service to undertake an assessment of the maximum number of guests that can be accommodated safely, it is desirable for licensing authorities to ask applicants to submit (as part of their application) floor plan(s) for their premises indicating certain information.

Applications for licences, including temporary licences, must therefore be accompanied by floor plans in accordance with the requirements below. These should be provided electronically where possible, including via email. Three (3) coloured printouts to scale must be provided when requested.

Floor plans must show the following:

- the extent of the boundary of the building and the external and internal walls of the premises;
- the location and names of any streets surrounding the building from which guests have access to the premises;
- the location and width of each point of access to and egress from the premises;
- the location and width of any other escape routes from the premises;
- the location of any equipment used for the detection or warning of fire or smoke or carbon monoxide or for fighting fires;
- the location of any steps, stairs, elevators or lifts in the premises;
- any accommodation intended for guests with mobility impairment;
- the number of rooms intended for sleeping; and
- the maximum occupancy capacity of the building (excluding children under 10 years old).

A floor plan may include a legend through which the matters narrated above may be sufficiently illustrated by the use of symbols on the plan.

Floor plans should preferably be in the following format:

- **All applications:** premises drawings, possibly professional prepared, at a scale of 1:100 and a location plan at a scale of 1:1250 or 1:2500 for rural locations (see further below). Please note that these scales are not prescriptive and are for guidance only.
- **Complex applications**, identified by the Licensing Team in consultation with local authority officers: professionally prepared premises drawings at a scale of 1:50.

For all applications which are not identified as complex applications, floor plans need not necessarily be professionally prepared. However, they must meet the requirements denoted by the 9 bullet points listed above. If you are unsure whether your plan meets the requirements, please e-mail your plan to shortletslicensing@orkney.gov.uk and advice will be provided.

Plans used for other purposes, such as planning applications, may be suitable for STL licensing purposes as long as they are up-to-date and contain all the required information. Please bear in mind, however, that plans must be submitted **by the applicant** with their STL licence application form.

The Council cannot retrieve plans used for other purposes and pass these between departments; it is the applicant's responsibility to ensure that the plans accompanying a STL licence application are accurate, up-to-date and contain all the required information.

Annex D

Licences for Short-term Lets – Declarations by Owners.

All owners of the property must agree to an application for short-term lets licence being made. Please score through the words below that do not apply and then sign the declaration below.

I / We declare that I / we am / are the owner(s) of the property at [insert address]:

.....
.....

I / We confirm that I / we am / are aware of the application for short-term lets licence and consent to the application being made.

1. Signed: Date:.....

Name: PRINT IN BLOCK
CAPITALS

Address:
.....

Joint owners should complete the section below or a separate Owner's Declaration.

2. Signed: Date:

Name: PRINT IN BLOCK
CAPITALS

Address:
.....

Mandatory Checklist.

Licences for Short-term Lets – Application Checklist.

A list similar to this is suggested by the Scottish Government 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. The Council has shortened this list to those elements which relate to mandatory licence conditions or are required as supporting information.

Supporting Information – Required:	
Floor Plans: I attach Floor Plans in accordance with Annex C of this Guidance.	Yes / No
Fire Safety Checklist: I attach a completed Fire Safety Checklist in accordance with paragraph 4.2 of this Guidance.	Yes / No
Ownership: I am the sole owner of the premises.	Yes / No
OR: I am not the sole owner of the premises and I attach form(s) of Declaration in accordance with Annex D of this Guidance which have been completed by all other owners.	Yes / No
Mandatory Conditions (see section 3 and Annex B of this Guidance):	
Type of licence.	
I know which type of licence I want to apply for – see paragraph 18 of Annex B of this Guidance: <ul style="list-style-type: none"> • secondary letting, • home letting, • home sharing, or • home letting and home sharing. 	Yes / No
Responsibility for the property.	
Agents – I have identified those involved with the day-to-day management of my premises and know that I cannot change them without the licensing authority’s approval.	Yes / No
General Safety and Standards	
General safety – I have taken all reasonable steps to ensure the property is safe for residential use.	Yes / No
Maximum Occupancy: I know how many guests I want to accommodate (excluding children under 10 years old) and I consider that I can do this safely.	Yes / No
Repairing Standard – I am aware that the Repairing Standard applies to my premises.	Yes / No
My premises meet the Repairing Standard. Note: https://www.gov.scot/publications/repairing-standard-statutory-guidance-private-landlords/	Yes / No

[<i>If relevant</i>] EPC – my premises has a valid EPC certificate issued within the last 10 years and the EPC Rating is: [state answer A to G] Note: A house being used as self-catering should have an EPC. An EPC is not required where only a room within a building is being let.	Yes / No Rating:
Fire Safety	
Fire safety: premises – I have installed satisfactory equipment to detect and warn against fire or suspected fire, and carbon monoxide.	Yes / No
Fire safety: furniture and furnishings - my furniture and furnishings comply with fire safety regulations and I have records that demonstrate compliance.	Yes / No
Gas Safety	
Gas Safety: There are gas appliance(s) installed in the property.	Yes / No
I have up-to-date Gas Safety Certificates (dated within the last 12 months).	Yes / No
Electrical Safety	
I have:	
Made sure my electrical fittings and items are in good working order.	Yes / No
Arranged for an electrical safety inspection to be carried out by a competent person.	Yes / No
Obtained an Electrical Installation Condition Report on any fixed installations.	Yes / No
Obtained a Portable Appliance Testing Report on moveable appliances to which my guests have access and labelled inspected items.	Yes / No
Note: These items may be requested as part of the application and / or on any inspection of the premises.	
Water Safety	
Water supply: I have established that my premises are supplied with water by Scottish Water.	Yes / No
OR I have established that my premises has a private water supply and I comply with the relevant regulations.	Yes / No
Water safety: legionella	
I have completed a legionella risk assessment (this applies to both public and private water supplies). Note: information is available at legionella risk assessment .	Yes / No
Other	
Information for guests: I have prepared the required information for guests – including specific gas safety information in accordance with the Council's additional standard licence condition – and know where I will put it for them on the premises.	Yes / No

Planning permission: I understand that I require to have the relevant planning permission for the property, and that my application will be passed to the Council's Planning Service for screening. To the best of my knowledge, the relevant planning permission is in place.	Yes / No
Listings: licence number: I have made plans to display my licence number on adverts and listings.	Yes / No
<i>[If relevant]</i> Listings: EPC rating: I have made plans to display my Energy Efficiency Rating from my EPC on adverts and listings. Note: A house being used for self-catering should have an EPC. An EPC is not required where only a room within a building is being let.	Yes / No
Buildings insurance: I have checked that there is valid buildings insurance in place for the premises.	Yes / No
Public liability insurance: I have checked that there is valid public liability insurance in place whilst my premises is let as a short-term let.	Yes / No
Fees	
I know the fee that I will be charged and I am ready to pay it with my application – see paragraphs 12.1, 13.2, 13.3 and 13.4 of this Guidance.	Yes / No
False or misleading information	
I have not provided any false or misleading information to the licensing authority.	Yes / No

Annex F

Licences for Short-term Lets – Site Public Notice.

Notice is Hereby Given on [insert date]

That application has been made to Orkney Islands Council for a short-term lets licence for [insert type of licence from secondary letting, home letting, home sharing, or home letting and home sharing – delete as appropriate] in respect of premises at [insert address]:

.....

By [insert name and address of applicant]:

.....

And [insert name and address of day-to-day manager, if applicable]:

.....

.....

Any objections and representations in relation to the application may be made to the Head of Legal and Governance, Council Offices, Kirkwall, KW15 1NY within 28 days of the above-mentioned date.

Any objection or representation must be in writing; must specify the ground of the objection or the nature of the representation; must specify the name and address of the person making it; and must be signed by him/her or on his/her behalf. The Council is required to send a copy of any objection or representation to the applicant.

An objection or representation shall be considered to have been made within the period referred to if it is delivered by hand within that period or posted (by registered or recorded delivery post) so that in the normal course of post it might be expected to be delivered within that period.

Where an objection or representation is made to the Council after the date referred to but before a final decision is taken on the application, it is competent for the Council to entertain it if satisfied that there is sufficient reason why the objection or representation was not made within the period of time stated.

A pro-forma form (preferred) and guidance for making Objections or Representations should be used. This is available from the Head of Legal and Governance and online via the Related Downloads link at [Short Term Lets \(orkney.gov.uk\)](http://Short Term Lets (orkney.gov.uk))

Date: Signature:

Position (if employed by company or partnership):

To be displayed for a period of 21 days from the date referred to above at or near the premises referred to above so that it can conveniently be read by the public.

Annex G

Licences for Short-term Lets – Site Notice Compliance

I / We [insert name(s) and address(es)]:

.....

Applicants for a short-term lets licence Hereby Certify that:

(a) A Notice has been posted at or near the premises at [insert address]:

.....

From to

As required under Schedule 1 to the above Act.

Where the Notice was removed, obscured or defaced during the abovementioned period, I/we took reasonable steps for its protection and replacement as follows (give details and circumstances below):

.....

.....

OR

(b) That I/we have been unable to post a Notice as required under Schedule 1 to the above Act because I/we do not have the rights of access which would enable me/us to do so (give details and circumstances below):

.....

.....

Date: Signature:

Position (if employed by
company or
partnership):

To be returned to the Head of Legal and Governance, Council Offices, School Place, Kirkwall KW15 1NY after a Site Notice has been displayed for 21 days and preferably within 25 days from the date from which the Site Notice is first displayed.