

Short-term Lets Licensing Scheme – Frequently Asked Questions (FAQs)

Orkney Islands Council

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

1.	Why is the Council introducing this scheme?
1.1.	Because it is a legal requirement. The Council has no discretion to delay or fail to implement a licensing scheme for short-term lets.
1.2.	The rationale for the legislation is to ensure that all premises used for short-term lets are safe, and that the people operating them are suitable.
2.	Why is it being introduced now, when the tourism industry is still in the process or recovering after the Covid-19 pandemic?
2.1.	The initiative pre-dates the pandemic. The Scottish Government started looking at a number of challenges arising from the short-term lets sector in 2018. Research was carried out in 2019, followed by a public consultation. There were two further public consultations in 2020 and 2021, as the legislation was developed. The Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022 came into force on 1 March 2022.
2.2.	The Council had a duty to establish a scheme for licensing short-term lets by 1 October 2022.
3.	What is the deadline for applying for a licence?
3.1.	If you already operated a short-term let before 1 October 2022, then you must apply for a licence before 30 September 2023. You can continue to operate while your application is being processed. If you did not already operate a short-term let when the scheme became operational on 1 October 2022, then you cannot start operating until you have a licence.
4.	How long will a licence last?
4.1.	The Council consulted on the duration of licences and agreed that they should last for 3 years, which is the longest period permitted by the legislation.
4.2.	It is also possible to apply for a temporary licence, lasting up to 6 weeks.
5.	How do I know if I will need a licence?
5.1.	In simple terms, you are likely to need a licence if you provide residential accommodation as a host to a guest in exchange for payment, and the guest does not use the accommodation as their only or principal home.
5.2.	If you are unsure, you should first check the definition of short-term let in Section 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 . You may also find it useful to read the Scottish Government's Guidance for Hosts and Operators .

5.3.	If you remain unsure, please contact the Licensing Team for advice and guidance at shortletslicensing@orkney.gov.uk .
6.	Are there any types of properties which are excluded from the requirement to obtain a licence?
6.1.	Yes. These are set out in Schedule 1 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 and include hostels, bothies, student accommodation and hotels which have planning permission granted for use as a hotel.
7.	But I only rent out one bedroom in my house on Air BnB during the summer months. Do I need a licence for that?
7.1.	Yes. The legislation covers home-sharing (letting out rooms which are part of your own home) as well as secondary letting (letting out separate dwellings, such as a holiday cottage) and home-letting (letting out your entire home).
7.2.	There are no provisions in the legislation which exempt short-term letting carried out for only part of the year, or a specified number of days per year.
8.	What about caravans?
8.1.	The legislation excludes “accommodation which is capable, without modification, of transporting guests to another location”. This would include motorhomes and conventional caravans designed to be pulled behind a vehicle, but static caravans would not be covered by the exemption.
9.	I have more than one property. Do I need a separate licence for each one?
9.1.	The legislation states that a licence is required for each “premises”. If you own more than one holiday cottage, or a holiday cottage and a B and B, then you will need separate licences for each premises. However, if you have multiple accommodation on the same premises, for example 3 yurts in a field, then you will need only one licence.
10.	I need to display a Notice for 21 days but it says that the objection period is 28 days – is this correct?
10.1.	Yes, there is a discrepancy within the Civic Government (Scotland) Act 1982 which means that the Notice only needs to be displayed for 21 days, but the legislative period for objections / representations to the application is 28 days (as stated on the Notice).
11.	I understand that there was a court ruling in June 2023 which declared that parts of the proposed short-term lets licensing scheme in Edinburgh were unlawful. Does this ruling have any implications for Orkney?
11.1.	No. The court case was concerned with specific elements of the short-term lets licensing scheme in Edinburgh, including a rebuttable presumption against granting STLs for secondary lets within tenement blocks, which the Court held to be unlawful. The elements of the Edinburgh scheme which the Court found to be unlawful form no part of the short-term lets licensing scheme in Orkney, which is unaffected by the Court’s ruling.

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