

Consultation report on proposals for a licensing scheme and planning control areas for short-term lets in Scotland

December 2020



Scottish Government
Riaghaltas na h-Alba
gov.scot

Short-Term Lets: Consultation No. 2 Report

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Foreword by Kevin Stewart MSP, Minister for Local Government, Housing and Planning



I am pleased to present the Scottish Government's report into the consultation on proposals for the regulation of short-term lets in Scotland. We received 1,086 responses to this consultation; remarkably, the same number as in the 2019 consultation, despite the foreshortened period of engagement. I am very grateful to all who took the time to attend the consultation workshops (on-line as necessitated by COVID-19 restrictions) and to respond. As I hope this report shows, we have listened to the many and various views expressed and refined and improved our proposals as a result.

Perhaps the greatest number of comments centred on whether to proceed with regulation at this time or to delay it.

I am continuing to press ahead with these proposals now and the secondary legislation will be laid at the Scottish Parliament in December.

This is so that local authorities can make progress in establishing licensing schemes and control areas from April 2021 to address what is a pressing issue for some of our communities. But we have adjusted our proposals so that existing hosts in Scotland can be sure they have until 1 April 2023 to apply for a licence, giving them over two years to get ready.

The licensing scheme sets out mandatory safety standards which many hosts will already be following to comply with existing law or as a matter of best practice. I am keen to see the measures to protect the safety of guests and neighbours rolled out without unnecessary delay. The scheme helps to level the playing field by requiring all short-term let accommodation to meet the same safety standards.

Subject to the approval of the Scottish Parliament, the licensing scheme and control area regulations will come into force on 1 April 2021. However, local authorities will have until 1 April 2022 to establish a licensing scheme in their area and open it to receive applications. We are not placing additional requirements on hosts in the midst of the COVID-19 pandemic. In due course, hosts will need to make an application for a licence to their local authority. However, existing hosts will be able to continue operating whilst their licence application is processed.

I am aware, of course, of the impact of the pandemic. Following the consultation, we have removed local authority discretion to set a deadline shorter than one year for existing hosts to make an application for a licence. We did this to help make the scheme easier to understand and enforce for all those working across local authority

areas but it also means that **existing hosts in Scotland will have until 1 April 2023 to apply for a licence** no matter where in Scotland they operate. I very much hope that tourism in Scotland will have recovered strongly from the impact of the pandemic by that point.

We have committed to monitoring and evaluating the impact of our proposals to ensure that they are effective and targeted.

We have considered the representations made by business and tourism stakeholders in the same way as those made by every other sector and interest, including residents. Residents have expressed concern about safety, noise, nuisance, littering, antisocial behaviour, the loss of residential housing stock and the impact on local communities. Although the specific issues and depth of concern varies, there are residents adversely affected by short-term let activity in rural and urban areas across Scotland. This government has always stressed striking the balance between the needs of local communities and wider economic and tourism interests. I believe our proposals do this and there is insufficient reason to delay.

Kevin Stewart MSP
Minister for Local Government, Housing and Planning

1. Executive Summary

- 1.1. This is a report on the Scottish Government's [Short Term Lets: Consultation on a licensing scheme and planning control areas in Scotland](#)¹ which ran from 14 September to 16 October 2020. This report uses the same terminology as in the consultation paper and, for ease of reference, the glossary is reproduced at **chapter 2**.
- 1.2. The Scottish Government received 1086 consultation responses and engaged through 20 virtual workshops and events at which 423 people attended. The consultation process is explained in more detail in **chapter 3**.
- 1.3. A number of respondents raised the issue of the timing of these proposals and whether the Scottish Government had taken the impact of COVID-19 on the tourism sector into account. This report sets out the Scottish Government's response at **chapter 4**.
- 1.4. The next three chapters deal with the points made in consultation in respect of the three questions relating to the definition of a short-term let, control area regulations and the licensing scheme, respectively. The points are dealt with in the same order as in the consultation paper.
- 1.5. **Chapter 5** sets out the main points made in respect of the definition of a short-term let and the Scottish Government's response on:
 - unconventional accommodation;
 - student accommodation;
 - aparthotels;
 - the relationship with the private rented sector and HMOs;
 - accommodation provided for work;
 - broadening the definition of family;
 - educational stays with families; and
 - comparison with the treatment of lodgers.
- 1.6. Similarly, **chapter 6** sets out the main points made in respect of control areas and the Scottish Government's response on:

¹ All Scottish Government consultation and research documents on short-term lets from 2019 and 2020 and the BRIA referred to in this report can be accessed from www.gov.scot/publications/short-term-lets/.

- what constitutes a material change of use;
- process for reverting from short-term lets to residential use;
- revocation of planning permission;
- removal of permitted development rights;
- the process for establishing a control area; and
- transitional arrangements for existing secondary lets without planning permission.

1.7. Again, **chapter 7** sets out the main points made in respect of the licensing scheme and the Scottish Government's response on:

- amendments to mandatory conditions with respect to: private water supplies; public liability insurance; and other modest improvements to, for example, electrical safety;
- amendment to the mandatory condition on planning permission;
- amendments to mandatory conditions relating to taxation and mortgage or tenancy terms;
- the framing of discretionary licence conditions;
- the payment of fees as a mandatory condition;
- application process and clarifying who holds the licence;
- relevant information for the fit and proper person test;
- the requirement to notify neighbours of application;
- the refusal of an application, suspension and revocation of a licence and implications for bookings;
- sanctions for offences including the level of fines and the possibility of imprisonment;
- renewal and notification changes;
- temporary licences and exemptions; and
- the requirement for adverts to include the licence number.

- 1.8. **Chapter 8** gives an overview of the six impact assessments set out in the following chapters:
- **Chapter 9** - a Children's Rights and Wellbeing Impact Assessment (CRWIA);
 - **Chapter 10** - a summary of the Equalities Impact Assessment (EQIA);
 - **Chapter 11** - a Data Protection Impact Assessment (DPIA);
 - **Chapter 12** - a summary assessment against the Fairer Scotland Duty;
 - **Chapter 13** - an Island Communities Impact Assessment (ICIA); and
 - **Chapter 14** - a summary of the pre-screening Strategic Environmental Assessment (SEA).
- 1.9. The Business and Regulatory Impact Assessment is published separately.
- 1.10. The Scottish Government is very grateful to all those who took the time and trouble to engage with this consultation.

2. Glossary of terms

2.1. In the consultation paper and this report, the following abbreviations in respect of legislation are used:

“the 1982 Act”	means the Civic Government (Scotland) Act 1982 ;
“the 1997 Act”	means the Town and Country Planning (Scotland) Act 1997 ;
“the 2016 Act”	means the Private Housing (Tenancies) (Scotland) Act 2016 ;
“the 2019 Act”	means the Planning (Scotland) Act 2019 ;
“the Control Area Regulations”	means the statutory instrument to be made under powers in section 26B of the 1997 Act (as inserted by section 17 of the 2019 Act);
“GPDO”	means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 ;
“the Licensing Order”	means the statutory instrument to be made under powers in section 44 of the 1982 Act;
“UCO”	means the Town and Country Planning (Use Classes) (Scotland) Order 1997 (SI 1997/3061).

2.2. The following definitions are used in respect of the **actors** in the system:

“accrediting organisation”	means an organisation promoting higher industry standards and best practice for the short-term lets sector, by offering advice or certification to hosts;
“actor”	means any one of the class of persons and organisations interacting with the Licensing Order and Control Area Regulations;
“channel manager”	means a person or organisation providing a service to a host which enables them to

	advertise and accept bookings through multiple platforms;
“Destination Management Organisations” (DMOs)	means an organisation providing commission-free marketing of accommodation by pointing to the host’s website or booking system (i.e. they do not take bookings directly);
“guest”	means a person occupying accommodation for the purposes of a short-term let;
“holiday letting agency”	means an organisation which takes responsibility for all aspects of making accommodation available for short-term lets (marketing, bookings, queries, cleaning etc.), i.e. offering all the functions of a hosting intermediary combined with those of a platform;
“host” (or “licencee”)	means a person or company providing accommodation for short-term letting, including commercial landlords (note that the host may not be the owner or person who lives at the property ²);
“hosting intermediary”	means a person or company allowing hosts to outsource some or all of their functions in respect of services provided to guests during their stay;
“local authority”	has its usual meaning and, for the purposes of this consultation, they are the planning authorities and licensing authorities;
“neighbour”	means, for our purposes, someone whose permanent residence is in close enough proximity to a short-term let to have a legitimate interest in its business, e.g. potentially affected by safety, noise, litter, nuisance;

² Sometimes the host (in home sharing or home letting) may also be a tenant (i.e. the host is renting from a landlord). In other circumstances, the resident owner of the property may outsource the hosting to another person or organisation.

“ platform ” (sometimes known as Online Travel Agencies or OTAs)	means an online marketplace, advertising or brokering service, such as Airbnb, booking.com and others, allowing hosts to offer properties for short-term lets;
“ trade association ”	means a body representing the interests of some or all hosts, and possibly other actors as well.

2.3. Additionally, the following definitions will be used:

“ 2019 consultation paper ”	means <i>Short Term Lets: Consultation on a Regulatory Framework for Scotland</i> , Scottish Government (April 2019)
“ accommodation ”	means the room, rooms or property let to the guest(s) as a short-term let;
“ control area ”	means a short-term let control area designated under section 26B of the 1997 Act;
“ dwellinghouse ”	means, for these purposes, an independent dwelling (with its own front door, kitchen and bathroom) such as a house, flat, cottage etc. ³ ;
“ PDR ”	means permitted development rights under the GPDO;
“ HMO ”	means a house in multiple occupation, being a property rented out by at least three (unrelated) people who share the bathroom or toilet and kitchen, and is the only or main residence of the people living there;
“ home sharing ”	means a type of short-term let involving the letting of a room or rooms where the host normally lives (i.e. their primary residence), with the host in residence ⁴ ;

³ I.e., taking its common law meaning as set out in [Planning Circular 10/2009](#).

⁴ This was called **sharing** in the 2019 consultation paper.

“home letting”	means a type of short-term let involving the letting of a room or rooms or the entire property where the host normally lives (i.e. their primary residence), when the host is absent (frequently this is when the host is on holiday or away on business, for example) ⁵ ;
“secondary letting”	means a type of short-term let involving the letting of a room or rooms or the entire property, where the host does not normally live ;
“short-term let”	is as proposed in this consultation paper (see chapter 4);

⁵ This was called **swapping** in the 2019 consultation paper.

3. Introduction

Background

- 3.1. Short-term lets have become the subject of much controversy in some parts of Scotland and evoke strong opinions. Our 2018-19 Programme for Government made a commitment to ensure that local authorities have appropriate regulatory powers to balance the needs and concerns of their communities with wider economic and tourism interests.
- 3.2. The Short-Term Lets Delivery Group was established in 2018 to assess the evidence base and the impact, positive and negative, of short-term lets, identify the existing powers councils have and explore whether further measures are required. In April 2019, the Scottish Government launched a public consultation and commissioned independent research into the impact of short-term lets on people and communities. The 2019 consultation paper outlined possibilities for a regulatory approach, which included the licensing of short-term lets. In parallel with the consultation, what is now the Planning (Scotland) Act 2019 completed its passage through the Scottish Parliament and includes provision for the establishment of short-term let control areas. The reports on the 2019 consultation and research were published on 28 October 2019.
- 3.3. On 8 January 2020, Kevin Stewart MSP, Minister for Local Government, Housing and Planning, [announced plans to regulate the short-term let sector](#) in the Scottish Parliament, including:
 - establishing a licencing scheme for short-term lets using powers under the Civic Government (Scotland) Act 1982;
 - prioritising work to give local authorities the power to introduce short-term let control areas under powers in the Planning (Scotland) Act 2019; and
 - carefully and urgently reviewing the tax treatment of short-term lets, to ensure they make an appropriate contribution to local communities and support local services.
- 3.4. Work was paused in March 2020 because of the coronavirus (COVID-19) pandemic but resumed in July 2020.

The consultation

- 3.5. The 2020 consultation covered the definition of short-term lets, the establishment of control areas under the Planning (Scotland) Act 2019 and the establishment of a licensing scheme under the Civic Government

(Scotland) Act 1982. The review of tax treatment is being progressed separately and was outside the scope of the consultation.

- 3.6. The purpose of this consultation was to help the Scottish Government ensure that the legislation laid at the Scottish Parliament in December is as efficient and effective as possible. The consultation was **not** about whether to implement a licensing scheme or control areas **nor** the broad framework of the approach.
- 3.7. The delay caused by COVID-19 meant that this consultation ran for just under five weeks, a shorter period of engagement than originally planned. The consultation opened on 14 September and closed on 16 October 2020.

Respondent profile

- 3.8. The Scottish Government received 1086 consultation responses. Of these, some 1069 responses answered the question about themselves. They could select one or more of the following options:

Option	Total	Percent
Accrediting organization	4	0.4%
Guest	302	27.8%
Host	475	43.7%
Hosting intermediary	18	1.7%
Letting agency or destination management organisation	30	2.8%
Local authority or other public sector organisation	28	2.6%
Other hospitality (e.g. hotel or B&B owner)	33	3.0%
Neighbour (affected resident) or community group	151	13.9%
Platform	5	0.5%
Regulatory body	4	0.4%
Trade association	20	1.8%
Other, please state ⁶	188	17.3%
Not Answered	17	1.6%

- 3.9. Of the 1086 consultation responses⁷, 893 (82.2%) identified themselves as being from individuals and 193 (17.8%) were from organisations⁸. A full list of organisations who responded to the organisation is at **Annex A**.

⁶ Although only 188 classified themselves as “other”, there were 411 further explanations provided to this part of the question.

⁷ By some coincidence, this is the same number that responded to the 2019 consultation!

⁸ However, 237 responses named an organisation, suggesting that some individuals responding for themselves had an organisational affiliation.

3.10. There were 1014 responses which answered the question on how they had heard about the consultation:

Option	Total	Percent
Online at gov.scot or Citizen Space	142	13.1%
Press coverage (local or national TV, radio, social or print media)	241	22.2%
Referred by local authority / government / MSP / councilor	107	9.9%
Referred by host	175	16.1%
Referred by platform	149	13.7%
Other, please state ⁹	350	32.2%
Not Answered	72	6.6%

3.11. We have published 947 responses (87.2%) in line with consultee expressed preferences and withheld 139 responses (12.8%).

3.12. We also asked about satisfaction with the consultation and received 1029 responses:

Option	Total	Percent
Very dissatisfied	265	24.4%
Slightly dissatisfied	133	12.3%
Neither satisfied nor dissatisfied	341	31.4%
Slightly satisfied	157	14.5%
Very satisfied	133	12.6%
Not Answered	57	5.6%

3.13. Over one third of respondents were dissatisfied compared with just over a quarter who were satisfied. Most of these (82%) were individuals, in proportion with the overall breakdown between individuals and organisations, see paragraph 3.9 above. By type of actor, guests and hosts were the most dissatisfied. We received 480 comments about this and the dissatisfaction covered a broad range of reasons, including the amount of time available and the COVID-19 pandemic. Some people said they found the consultation paper too complicated or had other issues with it. Many reasons offered were more focused on the policy rather than the consultation itself. So some care needs to be taken in interpreting this data.

3.14. Those who were satisfied or very satisfied offered a similar mix of comments in favour of the consultation paper, process or the policy proposals themselves.

⁹ Although only 350 selected “other”, there were 408 responses to this part of the question.

3.15. Respondents were generally content with the platform (Citizen Space) as a means to respond to the consultation. Of the 1014 responses, less than 10% were dissatisfied:

Option	Total	Percent
Very dissatisfied	53	4.9%
Slightly dissatisfied	44	4.1%
Neither satisfied nor dissatisfied	371	34.2%
Slightly satisfied	250	23.0%
Very satisfied	296	27.3%
Not Answered	72	6.6%

3.16. There were 174 comments, many of which were content with the web portal and accessibility. Some respondents took the opportunity to recap their wider views on the policy proposals.

Methodology

3.17. Responses to the consultation were submitted using the Scottish Government consultation platform Citizen Space. The Scottish Government also took account of views expressed in correspondence received in and around the consultation period, even though these were not submitted as formal consultation responses.

3.18. A number of organisations expressed strong views about the proposals and encouraged their members or the wider public to respond along similar lines. Around 15-20% of the questions had answers that were not unique or left blank. Around 150 responses appeared to be part of a lobbying campaign by Discover Scotland¹⁰, which encouraged guests to respond, principally complaining about the potential increased cost of staying in short-term let accommodation. Airbnb and the Association of Scotland's Self-Caterers (ASSC) also campaigned against aspects of the proposals and encouraged hosts to respond.

3.19. The Scottish Government also engaged through 20 virtual workshops and events at which 423 people attended; more information about these is provided at **Annex B**. Many of the issues raised at the consultation workshops were also raised in consultation responses, so these are not reported on separately; rather, they are referred to, where relevant, at each of the questions in this report.

3.20. It should be borne in mind that not every respondent answered all the three of the questions. This report indicates the number of respondents who commented at each question at the start of each chapter. We have

¹⁰ See www.discoverscotland.net

considered all comments made by respondents, including the range of issues mentioned in responses, reasons for opinions, specific examples or explanations, alternative suggestions or other comments. The purpose of this consultation was to identify issues and solutions rather than test the popularity of different propositions. For this reason, we have focused on analysis of the substance of the comments, rather than on numerical or sectoral analysis.

Structure of this report

- 3.21. This report broadly follows the structure of the consultation paper. But first we set out our the implementation timetable in light of the coronavirus (COVID-19) pandemic at **chapter 4**. Revisions to the definition of short-term let are set out in **chapter 5**; the revised proposals for control areas at **chapter 6**; and revised proposals for the licensing scheme are at **chapter 7**. The six impact assessments (see paragraph 1.8) are presented or summarised at **chapter 8** and following. The Business and Regulatory Impact Assessment will be published separately.
- 3.22. This report covers principal issues raised through consultation workshops and responses and sets out the Scottish Government's policy response. It does not cover every single issue raised, some of which derived from a misunderstanding of the proposals or are straightforwardly dealt with through guidance or practice.

Next steps

- 3.23. The Scottish Government intends to lay both the Licensing Order and the Control Area Regulations in December 2020. They are expected to come into force on 1 April 2021. The Scottish Government intends to produce two guidance documents in spring 2021, one aimed at local authorities and the other for hosts and platforms.

4. Implementation timescales and coronavirus (COVID-19)

- 4.1. A number of respondents raised the issue of the timing of these proposals and whether the Scottish Government had taken the impact of COVID-19 on the tourism sector into account. These were frequently tied in with dissatisfaction with the length of the consultation process and the timing of the consultation, see **chapter 3**.
- 4.2. Some 60 of the responses from people who were dissatisfied with the consultation referred to COVID-19 in their reasoning. Around a fifth of respondents referred to COVID-19 in their response to questions about the definition and the control area regulations, and around a third in response to the question about the licensing scheme.
- 4.3. With regard to the timings set out in the consultation paper:

<p>Consultation proposal:</p>	<p>The consultation paper proposed that the Licensing Order and Control Area Regulations came into force on 1 April 2021. The consultation paper set out a staged approach to implementation of the licensing scheme, concluding with all existing short-term let hosts being licensed by 1 April 2024. We were asking local authorities to have licensing schemes open to receive applications by 1 April 2022.</p>
<p>Issue:</p>	<p>The tourism sector has raised the impact of COVID-19 on their businesses. Some local authorities have raised the impact of COVID-19 on their ability to process current licensing scheme applications, never mind an additional scheme.</p> <p>Some consultees were also concerned about the complexity of 32 different implementation dates across Scotland leading to confusion amongst guests, hosts and platforms and lack of compliance.</p>
<p>Scottish Government response:</p>	<p>Amendment to structure of Licensing Order.</p> <p>Use of powers under the Control Area Regulations are entirely at local authorities' discretion, so we see no need to amend the coming into force date for these Regulations.</p>

We do not consider there are sufficient grounds to delay the first milestone (1 April 2022). The rationale for proceeding with a licensing scheme under the 1982 Act was, in part, to take action as quickly as possible to tackle issues for those communities who are suffering. In the worst case scenario, an amending instrument in the next Parliament could be used to push back the implementation date.

However, we now propose to set the three deadlines on the face of the Licensing Order:

- 1 April 2022 – for local authorities to open a licensing scheme;
- 1 April 2023 – for all existing hosts to have made an application for a licence; and
- 1 April 2024 – for all hosts providing short-term let accommodation in Scotland to be licensed.

This has the effect of removing local authority discretion to set earlier deadlines but will make the scheme easier to understand and enforce for all those working across local authority areas. It also has the effect of giving existing hosts in Scotland until 1 April 2023 to apply for a licence.

5. Definition of a short-term let

5.1. There were 891 responses to the question about any issues with the proposed definition as set out in chapter 4 of the consultation paper, and how to resolve them.

Definition proposed for consultation

5.2. We proposed to define a “short-term let” as a let where all of the following criteria were met:

- a) **residential** - the let is made to one or more guests for them to reside at the accommodation;
- b) **accommodation** – the accommodation is all or part of a house or flat or serviced apartment (but it is not on the premises of a hotel or other class 7 premises in the UCO);
- c) **temporary** - the accommodation is not the guests’ only or principal home;
- d) **commercial** - the let is for commercial consideration (i.e. for money or benefit in kind to the host, such as provision of a service or reciprocal use of a property); and
- e) **excludes immediate family** – none of the guests are members of the same immediate family as the host or host’s household (i.e. father, mother, brother, sister, son or daughter).

5.3. We proposed to exclude unconventional dwellings such as caravans, pods and mobile dwellings such as canal boats.

Issues raised in consultation

5.4. With regard to the exclusion of **unconventional accommodation**:

Consultation proposal:	The consultation paper proposed to exclude unconventional dwellings such as caravans, pods and mobile dwellings such as canal boats. This was primarily because they did not remove homes from the existing housing stock and because of concerns around potential complexities in how the mandatory safety conditions would apply to them.
Issue:	A number of consultees in workshops and in written responses questioned the exclusion of unconventional

	<p>dwellings, principally on health and safety grounds when this is so central to the approach.</p>
<p>Scottish Government response:</p>	<p>Amendment.</p> <p>1. On reflection, we agree that static unconventional dwellings should be included within the scope of the Licensing Order for the following reasons:</p> <ul style="list-style-type: none"> a) The primary motivation for the regulation of short-term lets is to ensure the safety of visitors and local residents and some respondents pointed out that it is inconsistent to regulate only some forms of accommodation. b) If unconventional dwellings fall outside the scope of regulation, then it is likely that this type of accommodation will grow (increasing the safety risk in proportion) but, additionally, bad hosts and poor practice will centre on this type of accommodation. For example, individuals who are removed from the landlord register or found to be not fit and proper to operate short-term lets, may move into providing this type of accommodation. c) Antisocial behaviour might simply move from party mansions to fields of glamping pods etc. We have heard about noise disturbance from party mansions in rural areas. If a large groups of pods were able to operate without a licence, this may generate noise and nuisance issues for neighbours, particularly in rural areas. d) Excluding unconventional dwellings would make the scheme harder to enforce. This is because there would legitimately be licensed and unlicensed accommodation advertised on the platforms and it would be hard for platforms and authorities to distinguish between legitimate unlicensed accommodation (unconventional) and illegitimate unlicensed accommodation (conventional). e) The estimates of short-term let activity in Scotland include unconventional dwellings and including them potentially reduces the fee per licence in some (rural)

	<p>areas where conventional accommodation is relatively diffuse.</p> <p>2. Unconventional accommodation would not be within scope of the Control Area Regulations.</p> <p>3. We are not extending the definition to mobile dwellings. This is because:</p> <p>a) Nobody has raised any issues or concerns in respect of mobile dwellings in either the 2019 consultation, 2020 consultation.</p> <p>b) Mobile accommodation raises questions about the definition of neighbours (if any) and the relevant licensing authority; canals and ports are the responsibility of Scottish Canals and the relevant port authority, respectively.</p> <p>c) The relatively few, if any, mobile accommodation offered for short-term lets are easy to distinguish as not requiring a licence under our regulations, e.g. a boat or motorised transport.</p>
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5.5. In terms of the definition of the accommodation (paragraph 5.2(b)), with regard to the treatment of **student accommodation**:

Consultation proposal:	The consultation proposal ¹¹ and policy intention was to exclude all purpose-built student accommodation (halls of residence etc.) from the definition of short-term let.
Issue:	Whether or not this should be included came up in consultation workshops. Some people highlighted that student halls of residence can cause noise and nuisance for neighbours. They suggested that student halls of residence should be within the definition of short-term lets when they are rented out during student vacation periods.
Resolution:	No change.

¹¹ As they are not class 9 residential properties.

	<p>We consider that the use of purpose-built student accommodation during vacations is unlikely to increase disturbance to neighbours (c.f. use by students) and does not displace people from the residential housing market. Purpose-built student accommodation is subject to HMO licensing and therefore is already regulated for safety.</p>
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5.6. In terms of the definition of the accommodation (paragraph 5.2(b)), with regard to the treatment of **aparthotels**:

Consultation proposal:	<p>The consultation paper proposed that only accommodation which is all or part of a house or flat or serviced apartment (but is not on the premises of a hotel or other class 7 premises in the UCO) was within the definition of short-term let. The policy intention was to capture serviced apartments where these are currently unregulated, such as a single apartment in a block of otherwise residential flats or tenements.</p>
Issue:	<p>Sonder, and others, expressed concern that our definition might also include aparthotels. Aparthotels are whole-block residential buildings, entirely owned, managed or operated by a single company. It was not the policy intention to include hotel-like accommodation which is separately regulated.</p>
Resolution:	<p>Clarification.</p> <p>In terms of use class, both flats and aparthotels are <i>sui generis</i>. Planning permission is needed to change from one use class to <i>sui generis</i> and between <i>sui generis</i> uses. This means that, to create an aparthotel out of a residential block, whether converting several flats (<i>sui generis</i>) or a large townhouse (class 9), would require planning permission. Therefore, they should not (and do not need to) fall within scope of the Control Area Regulations.</p> <p>Aparthotels comprising whole buildings, which are subject to similar regulations and checks by local authorities as hotels, will not fall within scope of the</p>

	Licensing Order, and we will make specific provision in the Order to exclude them.
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5.7. In terms of the definition of temporary (paragraph 5.2(c)) and the **relationship to the PRS and HMOs**:

Consultation proposal:	<p>The consultation paper proposed that any given let could not be both a PRS tenancy and short-term let at the same time, as the former relates to the tenant’s “<i>only or principal home</i>” and the latter excludes such accommodation.</p> <p>Furthermore, the consultation paper proposed that any given let could not be both an HMO and short-term let at the same time.</p>
Issue:	<p>There seemed to be some confusion about this as HMO legislation refers to “<i>only or main residence</i>” which is not the same wording as “<i>only or principal home</i>”. However, our view is that they have the same meaning.</p> <p>It was noted that, in some instances, serviced accommodation was offered to workers staying for six months and the landlord offered a PRS tenancy. They wanted to know whether they could continue to do this or whether this would now be a short-term let.</p>
Resolution:	<p>No change.</p> <p>We are not changing the boundaries of what falls within the definition of a PRS tenancy or an HMO but working only in the domain not covered by these regimes.</p> <p>Therefore, if tenants could properly be offered a PRS tenancy before the Licensing Order comes into force, then they can continue to be offered one. If not, then the workers should be afforded new protection, in terms of safety at least, by the short-term let legislation. If both parties want to go further than the legislation, for example, in agreeing a period of let and notice conditions in some form of contract they can, of course, do this.</p>

- 5.8. In terms of the definition of commercial (paragraph 5.2(d)) and **accommodation provided as part of a person’s work** (including tied accommodation¹²):

Consultation proposal:	The consultation paper did not make any distinct provision for tied accommodation (where accommodation owned by the employer is provided by the employer to an employee to facilitate the carrying out of the work).
Issue:	Consultees raised the issue of tied accommodation; this is not always the worker's only or principal home. Therefore, some tied accommodation might fall within the definition of short-term lets. This would include, for example, hotel workers and boarding school teachers living in houses owned by the hotel or school, oil rig workers, agricultural labourers accommodated in accommodation owned by the farm and carers accommodated in a granny annex.
Resolution:	Amendment. We consider that tied accommodation, where the accommodation is owned by the person for whom the work is done, should be excluded from the definition. However, where an employer secures accommodation from a separate host for the workers, such as a bank hiring a serviced apartment for a visiting finance professional, this arrangement would not fall within the exemption.

- 5.9. In terms of the exclusion of immediate family (paragraph 5.2(e)) and the **definition of family**:

Consultation proposal:	The consultation paper proposed to exclude lets to immediate family from the definition of short-term lets.
Issue:	ASSC highlighted that the exclusion does not refer to civil partners nor does it refer to step siblings such as are found in blended families. It also does not refer to partners or cohabiting couples. They suggested expanding the definition of family using the Private

¹² Tied accommodation is accommodation provided as part of a person’s work or employment, for example a farmworker’s cottage on the farm.

	Housing (Tenancies)(Scotland) Act 2016 Eviction ground 5 (Family member intends to live in property) as a model.
Resolution:	<p>Amendment.</p> <p>We agree that the consultation paper proposal does not reflect the full diversity of family structures in Scotland today and needs to be amended. We will broaden the family exemption along the lines suggested to cover a wider range of family relationships, including civil partnerships, grandparents and grandchildren and step-siblings, along the lines of the 2016 Act definition referred to above.</p>

5.10. In terms of the exclusion of immediate family (paragraph 5.2(e)) and the **educational stays with families:**

Consultation proposal:	The consultation paper proposed to exclude lets to immediate family from the definition of short-term lets. However, it did not make any proposal with regard to stays with families where a student was immersed with a family.
Issue:	One individual highlighted young students coming to Scotland and staying with a family to learn English. This is typically for a few weeks whilst attending English school and the host family supplies bed and board for modest remuneration.
Resolution:	<p>Amendment.</p> <p>We will exclude home sharing with the host(s)) for the principal purpose of advancement of the guest's education. This will apply in circumstances where it is arranged by a school, college, further or higher educational institution. It will exempt students living with a family for the express purpose of improving their English, for example. The reason for excluding these arrangements is that the student is living more like a family member than a guest.</p>

5.11. Comparison of home sharing with **arrangements for lodgers:**

<p>Consultation proposal:</p>	<p>The consultation paper proposals for regulating home sharing go further than provision for lodgers.</p>
<p>Issue:</p>	<p>Airbnb raised the comparison between a householder wanting to take on a long-term lodger (which would be the lodger’s “only or principal home”) and home sharing. A person taking on a lodger does not have to register as a landlord under PRS legislation. They are exempted from PRS regulations because the landlord is living in the same accommodation. There is normally a “lodger’s agreement” between the landlord and the lodger. However, a home sharing short-term let host is required to have a licence to rent one or more rooms to guests.</p>
<p>Resolution:</p>	<p>No change.</p> <p>We consider that the landlord-lodger arrangement is more akin to a flat share, whereas home sharing is more akin to a bed-and-breakfast business. With a landlord-lodger or flat share, the incomer is likely to meet the landlord and see the property before deciding to move in and is likely to have more leverage once resident; in home sharing, the guest is likely to have to make a decision remotely.</p>

6. Control Area Regulations

- 6.1. There were 869 responses to the question about any issues with the proposed control area regulations as set out in chapter 5 of the consultation paper, and how to resolve them.
- 6.2. In this chapter, the issues raised by consultees are reviewed in the order the proposals were presented in the consultation paper.

Material change of use

- 6.3. Paragraph 5.2 of the consultation paper explained that planning is concerned with the material change of use of a building; for example, its impact on local amenity and the character of a neighbourhood or area, safety and impact on immediate neighbours. Paragraph 5.5 noted that, currently, planning authorities (usually the local authority) consider on a case-by-case basis whether use of a dwellinghouse for secondary letting constitutes a material change of use requiring planning consent.
- 6.4. With regard to what constitutes a material change of use:

Consultation proposal:	The Control Area Regulations will allow planning authorities to designate all or part(s) of their area as a control area. Within such a designated area, the use of a dwellinghouse for secondary letting is always deemed to involve a material change of use and requires planning permission. Outside such areas, the current case-by-case consideration would continue to apply.
Issue:	<p>The Law Society highlighted the need for guidance. They noted that the consultation did not go into detail on when a material change of use takes place (and therefore the property requires planning permission) outwith a control area.</p> <p>They also suggested that it was important that there were clear principles for assessing planning applications. They thought it would be helpful if there was national guidance on planning considerations for short-term lets.</p>
Resolution:	<p>Clarification.</p> <p>We will issue guidance on both:</p>

	<ul style="list-style-type: none"> • what constitutes a material change of use with respect to the use of dwellinghouses as short-term lets outside control areas; and • relevant considerations in determining a planning application in respect of change of use to a short-term let in any area.
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Reverting to residential use

6.5. Paragraph 5.8 of the consultation paper proposed that dwellinghouses used for secondary letting could revert to residential use without planning permission:

Consultation proposal:	The consultation paper proposed that dwellinghouses used for secondary letting could revert to residential use without planning permission.
Issue:	<p>One local authority raised a concern around the proposed introduction of a permitted development right to allow a short-term let to revert to a residential use. The concern was that, where a consent had been granted for a change of use to an short-term let and there were associated works carried out (for example to subdivide the property), reverting to residential dwellinghouse use may result in a residential property that does not conform to local plan policies.</p> <p>Another consultee considered that local authorities should be notified of the change back to residential use.</p>
Resolution:	<p>Clarification through guidance.</p> <p>With regard to the possibility that some properties reverting to residential use might not comply with local policies, we consider this may occur but is unlikely to be a frequent occurrence. One remedy is for the planning authority, in granting consent for change of use to short-term let, to impose conditions to address these concerns; we will set this out in guidance. For example, changes to the fabric of the building for short-term let use might be highlighted as requiring to be reversed if the property reverts to residential use.</p>

	<p>A requirement to notify the local authority of a change back to residential use would help local authorities keep track of concentrations of short-term lets in their area. However, there would potentially be problems in making this enforceable. Active secondary letting will be trackable through the licensing scheme.</p> <p>On balance, we have decided not to make any specific legislation provision at this time. Whether any change from secondary letting to residential use requires planning permission will depend on whether it constitutes a material change of use. At paragraph 6.4 above, we have said that we will issue guidance to local authorities on material change of use for dwellinghouses becoming short-term lets. We will also issue guidance on the reverse: planning considerations on short-term lets reverting to residential use. In most cases, we would expect that this would not be a material change of use but, where alterations to the fabric of the building have been made for the specific purpose of using it for short-term lets, then such a change might be material.</p> <p>We are not aware of any problems at present with the sale of holiday accommodation to people intending to make it their home; and these planning considerations are not new.</p> <p>We will legislate to amend the GPDO later, if guidance proves to be insufficient.</p>
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Revocation of planning permission

- 6.6. Paragraph 5.9 of the consultation paper set out proposals for the revocation of planning permission:

Consultation proposal:	<p>We proposed that, in a manner similar to advertising hoardings, any planning permission which is granted would be valid for a default period of ten years (unless a longer or shorter period is set by the authority) but that local authorities should have the power to revoke planning permission after that time. Without such a mechanism, the granting of planning permission for use of residential property for secondary letting is a one-way</p>
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	ratchet, in which the number of properties which can be used for this purpose would only ever increase.
Issue:	ASSC raised a concern about having any form of time limit on consent could have implications for businesses in investing in their properties. The Short Term Accommodation Association (STAA) suggested that, where a planning authority intended to revoke a consent, the business should be given one year's notice in order to prepare for the revocation.
Resolution:	<p>Amendment.</p> <p>We will not make provision mirroring the advertisement consent process at this time. We will set out in guidance the existing powers available to local authorities in respect of secondary letting with planning permission already granted.</p> <p>Local authorities can impose a condition when granting planning permission to require the permitted use to be discontinued after a specified period – this is a “planning permission granted for a limited period”. There are also powers under section 43(1)(aa) of the 1997 Act which allow the Scottish Ministers to give directions to planning authorities in relation to the imposition of conditions.</p> <p>We will set out in guidance that local authorities should consider applying a discontinuation condition of 10 years, or such other time period as they consider appropriate, when granting planning permission for secondary letting in a control area (or outside, if they see fit).</p> <p>We will also consider how the process of applying for planning permission to continue beyond the specified period might be simplified, noting there is no urgency to do this (as the issue does not arise until we approach the end of the first specified periods, likely to be 10 years hence). In the event no action was taken, a further planning application, or an application under section 42 of the 1997 Act to disapply the discontinuation condition, would be required with the corresponding application process and fees.</p>

Removal of permitted development rights

6.7. Paragraphs 5.10 to 5.13 of the consultation paper set out proposals for the removal of permitted development rights:

Consultation proposal:	The consultation paper proposed to remove permitted development rights within control areas which would otherwise continue to give permission for property to be used for secondary letting for 28 days or less in any calendar year without planning permission.
Issue:	<p>A number of consultees highlighted that this reference to permitted development rights was incorrect. They are right and the consultation paper was wrong on this point. No such permission currently exists.</p> <p>One local authority also raised the issue of permitted development rights attached to dwellinghouses being lost when they become short-term lets.</p>
Resolution:	<p>Clarification.</p> <p>Our policy is that there should be no such permitted development right within control areas and there is no change required to give effect to this. Further, there is, and will be, no permitted development right outside control areas either.</p>

Process for establishing a control area

6.8. Paragraph 5.14 of the consultation paper set out proposals for the process which a local authority needed to follow to establish a control area:

Consultation proposal:	We proposed to mirror a similar process to that required to establish conservation areas; this seemed appropriate as conservation areas have a similar effect in making planning permission mandatory within them. The conservation area process requires some form of consultation (not specified in legislation) and notification to Ministers for approval.
Issue:	Local authorities were broadly content with this approach whereas hosts operating secondary lets were generally against control areas in general. Some suggestions for

	refinement were made which have led to the refinement of the proposals set out below.
Resolution:	<p>Amendment.</p> <ul style="list-style-type: none"> • Planning authorities should consult on proposals for control areas. • Community councils should be notified as part of the awareness raising of consultation. • Ministers will be asked to approve control areas and variations which expand the area they cover. • Ministers will be notified of variations which reduce their extent or when control area designations are cancelled.

Transitional arrangements

6.9. Paragraphs 5.15 to 5.17 of the consultation paper set out proposals for transitional arrangements. The paper highlighted issues around existing secondary letting hosts operating without planning permission where this should have been sought. The paper noted that these cases would come to light as the licensing scheme is rolled out across Scotland, whether or not the secondary letting was taking place in a control area.

6.10. With regard to the treatment of existing secondary letting:

Consultation proposal:	Within a control area, the use of a dwellinghouse for secondary letting is always deemed to involve a material change of use and requires planning permission.
Issue:	<p>This was commonly understood to mean that the requirement to have planning permission applies to any person using a property for secondary letting within the designated area, irrespective of whether they were using the property for secondary letting prior to the designation. I.e. the control area affects continuing businesses in the same way as it affects new businesses.</p> <p>Consultees also raised the issue of continued operation for businesses which have been operating for e.g. 10-15</p>

	<p>years or more. It was suggested that long-standing businesses should be able to continue operating.</p>
<p>Resolution:</p>	<p>Clarification</p> <p>If, after a short-term let control area is designated, the use of a dwellinghouse is changed to secondary letting this use will constitute a material change of use and will require planning permission.</p> <p>If the use of a dwellinghouse has been changed to secondary letting before a short-term let control area is designated, then under the current law planning permission would be required if:</p> <ul style="list-style-type: none"> a) the change of use was a material change of use, and b) the change of use occurred in the last 10 years (assuming no enforcement action had been taken in the meantime). <p>This means that, where long-standing businesses can evidence use as short-term let for more than 10 years (without previous enforcement action), they can continue to operate in control areas. In practice, this has the effect of delivering the commonly understood application of the provision in the vast majority of cases (as the numbers of short-term lets have only risen dramatically within the last 10 years). Of course, they will need also need a licence to operate and so any long-standing businesses that cause nuisance can be managed through licensing.</p> <p>We will set out more details in guidance to assist local authorities in applying control area designations effectively.</p>

7. Licensing Order under the 1982 Act

- 7.1. There were 1016 responses to the question about any issues with the proposed licensing order as set out in chapter 6 of the consultation paper, and how to resolve them.
- 7.2. As with chapter 6, the issues raised by consultees are reviewed in the order the proposals were presented in the consultation paper.

Coming into force and transitional arrangements

- 7.3. The consultation paper proposed at paragraph 6.4 that, subject to the Scottish Parliament approving the Licensing Order, local authorities would be able to implement licencing schemes from 1 April 2021. The Licensing Order will come into force on 1 April 2021. Nobody is required to do anything differently on that date.
- 7.4. The consultation paper also set out transitional arrangements and proposals for grace periods at paragraphs 6.84 to 6.89. These are discussed in more detail in chapter 4 of this report.

Mandatory conditions

- 7.5. Paragraphs 6.6 to 6.35 of the consultation paper set out the mandatory conditions for the licensing scheme which would apply across Scotland (i.e. in all local authority areas) and for all types of short-term let:

Consultation proposal:	The consultation paper set out a range of mandatory conditions for short-term lets licences across Scotland.
Issue:	<p>Consultees have pointed out some possible improvements to the way these are framed. Some of the suggestions are fairly technical and others are more significant. The more significant ones we are proposing to take forward are set out below.</p> <p>Some people noted that title deeds often prohibited the use of residential property for business purposes or for short-term lets, but this was difficult to enforce. We are not proposing to make reference to title deeds in the mandatory conditions. However, it would potentially be a relevant ground for objection by a neighbour.</p> <p><i>Issues in respect of the mandatory planning condition, tax condition, mortgage and tenancy condition and non-</i></p>

	<i>payment of fees are covered at paragraphs 7.6, 7.7 and 7.11, respectively.</i>
Resolution:	<p>Amendment.</p> <p>We will amend the mandatory conditions to:</p> <ul style="list-style-type: none"> • add a new condition relevant to properties with private water supplies; • set the minimum level of public liability insurance at £5 million; and • make other modest improvements to, for example, electrical safety provisions.

7.6. Paragraph 6.34 of the consultation paper set out other mandatory conditions on hosts and included a condition on **planning permission**:

Consultation proposal:	The consultation paper proposed a mandatory condition for a licensing application: that the host must confirm they have applied for, or obtained planning permission (if required), that it remains current and that they are complying with any planning conditions.
Issue:	<p>Through the consultation process, a concern has emerged that the proposal requiring planning permission or confirmation that planning permission is not required as part of a licence application might have the unintended effect of requiring planning permission across Scotland. (Proof that planning permission was not required is likely to result in an application for a certificate of lawful use or development. A host might struggle to rely on previous third party advice that planning permission was not required.)</p> <p>This defeats the purpose or value of control areas. A national requirement for planning permission is not desirable, in part because of the large number of planning applications that might generate.</p>
Resolution:	Amendment.

	We will modify the mandatory licensing condition to limit it to control areas. In other areas, we will not require local authorities to ask about planning permission on licensing application forms (although they may do so if they wish, using their discretionary powers to set additional conditions).
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7.7. Paragraph 6.34 of the consultation paper set out other mandatory conditions on hosts and included conditions on **taxation and mortgage or tenancy terms**:

Consultation proposal:	The consultation paper proposed mandatory conditions for a licensing application: that the host must confirm that they are aware of their obligations to pay tax on profit earned from short-term lets, as well as any local taxes for which they are liable; and the host must confirm that letting the accommodation would not breach any mortgage lending conditions (or tenancy terms), if applicable.
Issue:	Where the host is a tenant of the accommodation, the licence application will require the host to demonstrate that they have the owners' permission. This makes the tenancy condition unnecessary as a separate mandatory condition. With regard to home owners with mortgages and taxation, and informed by comments made during consultation, we are concerned that this goes beyond the licensing purposes of the 1982 Act.
Resolution:	Amendment. We will not include reference to taxation or mortgage or tenancy agreements as part of the mandatory licensing conditions. We intend to set out in guidance for hosts and platforms that hosts should be aware of these obligations and satisfy themselves that they comply with them ahead of submitting an application for a licence.

7.8. A revised list of the mandatory requirements, and whether they are likely to require verification or would be self-declaratory, is set out at **Annex C**.

Other licence conditions which local authorities may require

- 7.9. Local authorities will have discretionary powers to add licence conditions to address local needs and concerns. These conditions can be applied generally (to all licences), in certain circumstances (e.g. tenement buildings) and individually to a specific licensee (though this is only likely if problems have arisen). Paragraphs 6.36 to 6.60 of the consultation paper set out some conditions which local authorities might want to consider applying.
- 7.10. In terms of the approach to these discretionary powers to add licence conditions:

<p>Consultation proposal:</p>	<p>We proposed that local authorities would have discretionary powers to add licence conditions to address local needs and concerns. These conditions can be applied generally (to all licences), in certain circumstances (e.g. tenement buildings) and individually to a specific licensee (though this is only likely if problems have arisen).</p> <p>Some local authorities might want to set out standard conditions (which must be published) which would apply to all short-term lets in their area (possibly differentiating between the different types of short-term let).</p> <p>We set out the conditions which local authorities might want to consider applying.</p>
<p>Issue:</p>	<p>Some consultees highlighted potential issues with the way that some of the discretionary conditions were framed or whether they were appropriate at all. For example, allowing local authorities to require: guests to be met on arrival in the context of COVID-19; and some questioned whether some of the data for which local authorities could ask would mean that hosts would have to share commercial information.</p>
<p>Resolution:</p>	<p>Clarification.</p> <p>Rather than setting out a menu of discretionary conditions in the Licensing Order, we will set out options that local authorities may wish to consider in guidance.</p> <p>It is important the local authorities avoid arbitrary inconsistency in similar conditions across Scotland. If this approach does not work, we will bring forward an</p>

	amending order setting out a menu of discretionary conditions in the next Parliament.
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Fees

7.11. Paragraphs 6.61 to 6.65 of the consultation paper set out the powers for local authorities to charge fees to cover the establishment and running costs associated with the licensing scheme:

Consultation proposal:	The consultation paper proposed the option of a monitoring fee and the potential for it to be charged monthly (or on some other regular basis).
Issue:	Some consultees expressed concern over who chased late payment and how the payment would be recovered if a host was not paying their monitoring fee. There were concerns that this would create additional work for the local authority.
Resolution:	Amendment. It will be a mandatory condition of a licence for the fees to be paid on a timely basis. This allows local authorities to take swift action on non-payment of a fee through suspension or revocation of the licence.

Application process

7.12. Paragraphs 6.66 to 6.90 of the consultation paper set out the application process for the licensing scheme. With regard to **who is being licensed**:

Consultation proposal:	The consultation paper used the terminology of host (applicant or licensee) and hosting intermediary (meaning a person or company allowing hosts to outsource some or all of their functions in respect of services provided to guests during their stay).
Issue:	A number of stakeholders highlighted that the terminology used in the consultation paper with regards to the definition of host, and relationships between the host, owner, operator and licensee, needs to be clearer.

	A number of respondents to the consultation have objected to being referred to as “hosts”, especially members of the ASSC, who consider themselves to be professionals and not “hosts”.
Resolution:	<p>Clarification.</p> <p>We will clarify the provision in the Licensing Order so that fit and proper person checks are carried out on all those with an interest in the property, including:</p> <ul style="list-style-type: none"> • joint owners; and • all those involved in the day-to-day management of the property. <p>We will not use the term “host” in the Licensing Order and will work with stakeholders on the right terminology for guidance.</p>

Fit and proper person

7.13. Paragraph 6.83 of the consultation paper set out proposals for relevant information in considering whether an applicant was a fit and proper person to be licenced:

Consultation proposal:	<p>The consultation paper proposed that relevant information included:</p> <ol style="list-style-type: none"> a) relevant criminal convictions (and police intelligence); b) being disqualified from being a private landlord or having had letting agent or property factor registration revoked now or in the past; c) having had a short-term lets or HMO licence revoked by any local authority; d) having had an application for a short-term lets licence turned down by any local authority; and e) providing false or misleading information in an application for a short-term lets licence, HMO licence or application to be a private landlord.
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Issue:	Some consultees raised concerns about the proposed information and whether it was the right set of information. More comments were received on who was subject to the fit and proper person test (see paragraph 7.12 above).
Resolution:	<p>Guidance.</p> <p>Paragraph 5(3)(a)(i) of Schedule 1 to the 1982 Act requires a licensing authority to refuse an application if, in their opinion, the applicant is not a fit and proper person to be the licence holder. We will set out the grounds for what constitutes a fit and proper person in guidance, rather than in the Licensing Order, not least so that it does not become an exhaustive, prescriptive list.</p> <p>We do not see any issues with the proposed grounds which are in line with, for example, checks on letting agents prior to registration.</p>

Notification requirements

- 7.14. Paragraph 6.69 of the consultation paper proposed that the applicant needed to notify neighbours within a 20 metre distance of the property, including all residents on a tenement stair and neighbouring tenement stairs. The consultation paper also proposed at paragraph 6.70 that, where planning permission was also required, local authorities should have the power to combine the notification requirements so that neighbours are not notified twice about the same proposal.

Consultation proposal:	The consultation paper proposed that the host had to notify neighbours about a licensing application but not at renewal. The consultation paper wanted to facilitate local authorities in joining up their consideration of planning and licensing applications, in whatever way worked best in each area.
Issue:	Consultees pointed out that because we were proposing that the licence renewal application did not need to be notified to neighbours, it might be that neighbours were never told about a variation in the licence terms.

	<p>Furthermore consultees were concerned about: the criteria to be used to identify neighbours to be notified of a licence application; and what evidence would suffice to confirm notice had been served. There were concerns that some applicants or neighbours might make mischief around providing notice. It was suggested that the local authority might be better placed to give notice fairly and consistently and with less likelihood of challenge.</p> <p>At one consultation workshop, it was suggested that community councils and development trusts should be notified of planning applications as statutory consultees.</p>
Resolution:	<p>Amendment.</p> <p>We will give local authorities responsibility for notifying neighbours of a licensing application and any significant proposals for variation. Local authorities are already responsible for notifying neighbours about planning applications. We believe that this change would allow local authorities to make joint notifications about planning and licensing and streamline the handling of objections, should they wish to do so.</p> <p>We will set out details about who should be notified about licensing or planning applications (beyond neighbours) in guidance.</p>

Variation, suspension and revocation

- 7.15. A licensing authority can vary, suspend or revoke a licence in certain circumstances. Local authorities may do this without serving an enforcement notice if the seriousness of the breach justifies urgent action.

Consultation proposal:	The consultation paper sets out the powers for local authorities to refuse licence applications or suspend or revoke licences.
Issue:	One holiday letting agency flagged concerns about handling bookings that had already been made in the event that a licence application was refused. The same considerations apply in respect of suspension or revocation.

Resolution:	<p>Clarification.</p> <p>Any host who continues to operate can be fined for operating without a licence.</p> <p>Reporting an offence is a matter for local authorities to manage. If a licence application is going to be revoked, or an application refused, we would expect the local authority to act reasonably with respect to any guests staying at the accommodation at this time, and work with the applicant or licensee to make suitable arrangements before any offence would be declared or reported. Obviously, if there was an immediate safety issue that would be different; each situation should be dealt with on its own merits.</p> <p>We will set out in guidance that hosts should refund guests for any days paid for that could not be provided following refusal, suspension or revocation. This would allow guests to fund alternative accommodation. (We would expect the position in respect of refunds etc. for future bookings affected by refusal, suspension or revocation to be covered by booking terms and conditions in the same way as any other scenario in which the accommodation becomes unexpectedly unavailable, such as through fire damage or flood.)</p>
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Offences and fines

7.16. The consultation paper summarised the 1982 Act offences, including: operating a short-term let without a licence; non-compliance with the conditions of a licence; making unauthorised changes to a property; and making a false statement in an application or renewal application.

7.17. With regard to **the level of fines**:

Consultation proposal:	The consultation proposed to increase the maximum level of fine for operating without a licence to £50,000. It also proposed to increase the maximum level of fine to £10,000 for breaching a licence condition.
Issue:	In response to concerns expressed through consultation, we will increase the maximum level of fine to £10,000 for providing false information. For example, some property

	owners may make a false declaration about where they live, in order to apply for a home sharing or home letting licence, rather than a secondary letting licence. The incentive for the owner could be that the licence process may be more straightforward, cheaper and avoid the need to obtain planning permission (or the need to check with local authority whether planning would be required).
Resolution:	<p>Amendment (through a Bill).</p> <p>None of the three increases to the maximum level of fine can be made through secondary legislation¹³:</p> <ul style="list-style-type: none"> • £50,000 for operating without a licence condition, as per the consultation paper; • £10,000 for non-compliance with a licence condition, as per the consultation paper; and • £10,000 for making a false declaration, a change from the consultation paper. <p>We aim to make these changes early in the next Parliament through provision in a suitable Bill.</p>

7.18. With regard to **imprisonment for operating without a licence**:

Consultation proposal:	The consultation proposed to increase the maximum level of fine for operating without a licence to £50,000. It did not make any proposals for a custodial sentence.
Issue:	<p>The consultation paper noted (at paragraph 6.117) that the secondary letting of a normal home can yield much more revenue than letting under the 2016 Act. It noted that, with “party mansions”, the revenue may be significantly higher.</p> <p>Some consultees expressed concern that the level of fines would not be sufficient deterrent in some cases. They felt that the fines set out in the consultation paper may be significant and appropriate for most standard</p>

¹³ The power at section 225(4) of the Criminal Procedure (Scotland) Act 1995 to substitute new amounts for the current fine levels would change the levels across all the offences to which the standard levels refer, not just to offences in relation to short-term let licences.

	<p>self-catering properties, but would not be sufficient to deter people operating party houses (either without a licence or in breach of a licence condition). It was noted that revenue from operating a party house could be in the region of £250k to £500k per year. It was suggested that only imprisonment might be a sufficient deterrent in extreme cases.</p> <p>Various Acts have made amendments to the 1982 Act allowing imprisonment for operating without a licence for particular licence schemes only. There are powers in the 1982 Act to create a sanction of imprisonment for a period of up to 60 days and this could, in theory, form part of the Licensing Order. However, we will not add any provision in the Licensing Order at this stage as we did not consult on any form of custodial sanction.</p>
Resolution:	<p>Amendment in the next Parliament.</p> <p>We will amend the Licensing Order in the next Parliament (through an amending order or provision in a suitable Bill) to make provision for imprisonment as a last resort for hosts who continue to operate without a licence. In the first instance, the most serious sanction would be a fine and revocation of the licence. Imprisonment could be useful where the potential revenue from continuing to operate without a licence exceeded the maximum fine and the host was continuing to operate in flagrant disregard of the law.</p>

Renewal and notification of changes

- 7.19. Paragraphs 6.125 to 6.130 consultation paper proposed streamlining the renewal process as much as possible:

Consultation proposal:	<p>We proposed to streamline the renewal process as much as possible, placing more emphasis on the monitoring and compliance process in terms of maintaining standards. We proposed that, only where the renewal application proposed significant changes to the licence, should it be necessary to notify neighbours.</p>
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Issue:	<p>One consultee wanted to see an automatic renewal process.</p> <p>Another expressed concern at any suggestion that a renewal application was not notified in the case that the terms of the licence were varied before renewal but not at renewal. In this case, the terms might change and neighbours might never be notified.</p>
Resolution:	<p>Amendment.</p> <p>The 1982 Act allows for licences to be granted for up to 3 years. We will remove the three year limit on the duration of a licence at renewal. Licensing authorities must set out the circumstances in which they would grant licences for longer than three years on renewal.</p> <p>We will move the burden of notification of neighbours on application from the host to the licensing authority, see paragraph 7.14 above. This will also apply to renewal applications. However, renewal applications will only have to be notified to neighbours where there has been a material change since the licence was granted.</p> <p>Licencees must notify local authorities of any (proposed) changes that affect the conditions of their licence.</p>

Temporary licences and exemptions

7.20. Paragraphs 6.135 to 6.138 of the consultation paper set out proposals to give local authorities the power to waive some of the licensing requirements in certain circumstances.

Consultation proposal:	<p>The consultation paper set out proposals for temporary licences for short-term lets for a maximum of 28 days per year.</p>
Issue:	<p>A number of respondents raised issues with our proposals for the length of time a temporary licence could be granted. They have suggested that, whilst welcoming the inclusion of a temporary licence, the 28 day limit per year is not sufficient. Commonly cited examples included</p>

	<p>reference to the Edinburgh Fringe, where performers can require accommodation for 35-40 days.</p> <p>The STAA welcomed the inclusion of temporary licences but suggested they should be more flexible, allowing the 28 days to be spread over the year, as this would make the process less burdensome for those home sharing or home letting. Others also asked whether local authorities would be able to specify dates for which home letting was or was not permitted to operate.</p> <p>Consultees also raised concerns about excessive bureaucracy for: one-off home lettings (especially house swaps); and students being hosted by a family for learning English as a foreign language. There may be other examples which were not flushed out in consultation.</p>
<p>Resolution:</p>	<p>Amendment.</p> <p>The consultation paper conflated provision on temporary licences with that for exemptions. The policy intention stated in the consultation paper was to give local authorities the flexibility to cater for large events through the provision of short-term let accommodation. Examples include sports championship competitions and arts festivals, where a large number of performers and spectators need to be accommodated for a short period of time. However, we wish to avoid loopholes whereby hosts (or even local authorities) could circumvent the mandatory safety conditions which are to apply across Scotland.</p> <p>There are also circumstances where exemptions may be appropriate (some examples given in consultation).</p> <p>However, we do not want to undermine (or allow local authorities to undermine) our mandatory safety conditions. We do not want exemptions or temporary licences to be used inappropriately as a backdoor to lower standards. For this reason, we consider they are only appropriate for short, continuous periods of time.</p> <p>We will apply 1982 Act provision on temporary licences without amendment. The 1982 Act sets a duration of six</p>

	<p>weeks, which would address concerns in relation to the use of temporary licences for the Edinburgh Festival and other events that last a number of weeks.</p> <p>Additionally, we will allow licensing authorities to be able to exempt, on application, the use of premises for short-term lets from the requirement to have such a licence:</p> <ul style="list-style-type: none"> a) in respect of any particular occasion; or b) for a specified single continuous period not exceeding 6 weeks in any period of 12 months. <p>We consider that building in this flexibility, with guidance to local authorities on its use, reduces the risks of unintended consequences.</p> <p>Planning policies would still apply. This is particularly relevant with regard to secondary letting, especially within control areas. For very large, one-off events (such as the Commonwealth Games, Olympics or COP26), the Scottish Ministers could make a special development order to grant planning permission for change of use for an area and to require discontinuance of use after a certain period.</p>
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Data sharing with platforms

7.21. The consultation paper (at paragraph 6.143) proposed that each licence would have a unique reference number (URN). The licence number would include a local authority so that local authorities could issue licence numbers independently.

Consultation proposal:	The consultation paper proposed that a licence number must be displayed on any advert or platform (including on a website or app).
Issue:	Platforms have expressed concern about advertisements remaining live on platforms for unlicensed properties. They are concerned that they would be expected to investigate why such properties were still listed. There was a suggestion that local authorities should have to

	<p>notify platforms of these decisions in order to facilitate data cleansing.</p> <p>Stakeholders have questioned how we would ensure that platforms displayed the licence URN, noting that Scottish Government does not have the devolved powers needed to regulate this industry.</p>
Resolution:	<p>No change.</p> <p>It will be an offence for a host to operate without a licence. The primary duty rests with the host to cease advertising and cease operating. When a licence is refused or revoked, the host must take down listings on platforms.</p> <p>Enforcement of this could be through a number of channels: local authorities might choose (potentially on a sample basis) to check platforms for listings where they have refused or revoked a licence; neighbours (with any concerns) might check up on any operation that they suspected was unlicensed (and they could check this through the public register); and platforms might also (potentially on a sample basis) check listings against the public register.</p> <p>Platforms have a reputational (and therefore financial) interest in offering only lawful listings.</p> <p>A licence URN provides some assurance that a licence had (at least at one point) been obtained. Note that we will be considering security measures to be built into the licence URN so that they are hard to fake and easy to verify.</p> <p>We will continue discussing with platforms how they can display licence numbers. Market forces should attract guests to licensed properties (indicating that the accommodation is properly regulated and compliant), so it benefits legitimate hosts and platforms to display licence numbers.</p>

8. Impact assessments

- 8.1. A **Business and Regulatory Impact Assessment (BRIA)**, examining the likely costs and benefits of the Licensing Order and Control Area Regulations is available separately.
- 8.2. The following chapters set out:
- A **Children’s Rights and Wellbeing Impact Assessment (CRWIA)**, which is used to identify, research, analyse and record the impact of a proposed law or policy on children's human rights and wellbeing.
 - The results summary of **Equalities Impact Assessment (EQIA)**, examining the impact on different people and groups, prevent discrimination and identify opportunities to promote equality.
 - A **Data Protection Impact Assessment (DPIA)** is required by the General Data Protection Regulation (GDPR) for all projects (including new policy and regulation) involving personal data and privacy.
 - A summary assessment against the **Fairer Scotland Duty** aims to help the public sector make better policy decisions and deliver fairer outcomes. The duty focuses on socioeconomic inequality issues such as low income, low wealth, and area deprivation.
 - An **Island Communities Impact Assessment (ICIA)** is required by the Islands (Scotland) Act 2018 where a policy or strategy is “likely to have an effect on an island community which is significantly different from its effect on other communities”. The requirement to carry out an Island Communities assessment is not yet in force yet but Scottish Government has committed to completing them for new policies.
 - A summary of the pre-screening document for the **Strategic Environmental Assessment (SEA)**. The SEA helps to protect the environment by allowing planners and decision makers to consider the likely significant environmental effects of plans, programmes and strategies.
- 8.3. All of the impact assessments are examining the licensing scheme and control area regulations. To avoid repetition, we have removed the summary of the proposals and of consultation as they are set out in chapters 1 to 7 above. We have also removed the policy objectives and reproduce them below. The design principles (unchanged from the 2020 consultation paper) are also relevant and reproduced at **Annex D** for ease of reference.

Policy objectives

8.4. The high-level policy purpose behind the licensing and planning control area interventions is intended to be as follows:

- **Licensing** – to ensure short-term lets are safe and address issues faced by neighbours; and to facilitate local authorities in knowing and understanding what is happening in their area and handling complaints effectively.
- **Control areas** – to help manage high concentrations of secondary letting (where it affects the availability of residential housing or the character of a neighbourhood)¹⁴; to restrict or prevent short-term lets in places or types of building where it is not appropriate; and to help local authorities ensure that homes are used to best effect in their areas.

Contribution to national outcomes

8.5. The regulation of short-term lets supports the following National Performance Framework objectives:

- We have a globally competitive, entrepreneurial, inclusive and sustainable economy.
- We have thriving and innovative businesses, with quality jobs and fair work for everyone.
- We tackle poverty by sharing opportunities, wealth and power more equally.
- We live in communities that are inclusive, empowered, resilient and safe.
- We value, enjoy, protect and enhance our environment.
- We are creative and our vibrant and diverse cultures are enjoyed widely.

¹⁴ This wording is the same as in the consultation paper, save the substitution of “and” with “or”; one consultee observed that either or both of these grounds (availability of residential housing; character of a neighbourhood) were reasonable objectives for a control area and the Scottish Government agrees.

9. Children's Rights and Wellbeing Impact Assessment

9.1. This is the result of CRWIA Stage 1 screening.

The policy and describe its overall aims.

9.2. The policy and its overall aims are set out in chapter 3 and the policy objectives and relevant national outcomes are set out in chapter 8.

What aspects of the policy will affect children and young people up to the age of 18?¹⁵

9.3. The policy could affect children and young people in these ways:

- a) as hosts themselves;
- b) as children of hosts;
- c) as guests or children of guests;
- d) as neighbours of short-term lets; or
- e) in local communities.

As hosts

9.4. To be a host, a person must be capable of granting agreement for use of accommodation for this purpose. In practice, that means they must own a home or rent a home. Only persons aged 16 or over can do this in their own name. However, as a person must be aged 18 or over in order to obtain a mortgage, there will be very few child homeowners acting as short-term let hosts. In terms of renting, specific data on young people within the PRS is not available. But many tenancy agreements prohibit sub-letting and a young person is unlikely to be able to afford a home with spare rooms to rent out. We consider that the number of children and young people affected by this policy as hosts is negligible.

As children of hosts

9.5. A more likely scenario is that the parents or guardians of children make rooms available in their own home for short-term lets or let out a second home for this purpose. As far as the children are concerned, the three primary consequences are:

¹⁵ The Articles of the UNCRC and the child wellbeing indicators under the Children and Young People (Scotland) Act 2014 apply to all children and young people up to the age of 18, including non-citizen and undocumented children and young people.

- the presence or absence of guests in their own home;
 - the safety of the home they live in; and
 - the financial impact on their parents or guardians.
- 9.6. The overarching question is whether parents or guardians who are currently short-term let hosts continue to do so in a similar or modified form or stop doing so. The business and economic impact is considered in detail in the BRIA.
- 9.7. In some cases, hosts may choose to cease operating but there will also be instances where their licence application is refused or the licence is later suspended or revoked. When applying for a short-term let licence an applicant will be subject to a “fit and proper” person test before the local authority either grants or refuses the licence application. A person may not be a fit and proper person may be cease being a fit and proper person based on:
- a) relevant criminal convictions (and police intelligence);
 - b) being disqualified from being a private landlord or having had letting agent or property factor registration revoked now or in the past;
 - c) having had a short-term lets or HMO licence revoked by any local authority;
 - d) having had an application for a short-term lets licence turned down by any local authority; and
 - e) providing false or misleading information in an application for a short-term lets licence, HMO licence or application to be a private landlord.
- 9.8. Additionally the accommodation must meet, and continue to meet, the licence conditions set by the local authority. All applicants for a licence will be required to ensure that their property complies with a mandatory set of safety standards, and any other conditions that the local authority deem necessary for the operation of the property as a short-term let. The legislation will help to raise standards across the sector and this may make staying in short-term lets more attractive to a wider group of visitors.
- 9.9. Some hosts, including parents and guardians of children, may rely on income from home sharing to pay their mortgage payments or other essential household expenditure. A local authority is unlikely to refuse an application for home sharing without good reason to do so.

- 9.10. Similarly, secondary letting of one or more properties may provide an income stream (and employment) for parents or guardians. Some local authorities may want to reduce the intensity of secondary letting in some areas. This means, in the minority of cases, it may not be possible to continue hosting in the same way. This is likely to be the case in areas of housing pressure and so the host is likely to be able to maintain a revenue stream by moving their property into the Private Rented Sector (PRS) and finding a tenant without too much difficulty.
- 9.11. Where a host does continue to offer short-term lets, they will need to cover the costs of the licensing fee and any other costs to meet licence conditions not already met. The costs to hosts of the licensing scheme, and how these costs might be passed on to guests, is considered in the BRIA. We do not consider that the licensing scheme would have a significant adverse impact on income for most hosts. The likely level of the application and renewal fee will be relatively small in comparison to the earnings that can be derived from short-term lets, particularly when spread over the three year life of the licence. Furthermore, the costs of mandatory conditions are either already legally required, are part of best practice in the sector, and would generally be required if the property were to be used for other purposes, such as a long-term let. Planning fees will only be incurred if already required by existing legislation or where short-term let control areas are introduced because there is evidence that short-term lets are causing significant negative impacts on local communities. As such, there should not be a detrimental impact on the well-being of children in their care. Children of hosts carrying out home sharing or home letting will benefit from the basic safety conditions around fire, gas, water and electricity in their own home.

As guests or children of guests

- 9.12. For guests staying in a short-term let with their children, or for young people aged 16 or 17 staying in accommodation in their own right, (particularly for those staying in a home sharing/letting property), they will have greater assurance that their host is a fit and proper person and that the accommodation is safe.
- 9.13. The cost of the accommodation may be slightly higher if the licence fee charged to hosts is passed on to guests but, spread across many bookings, this is likely to be marginal.

As neighbours

- 9.14. Children and young people living in close proximity to properties which are used for short-term lets will benefit from the improved safety (especially risk of fire) from those properties. This is particularly so for neighbours of short-term

lets in flats or tenement dwellings. They will also benefit from any noise, nuisance or antisocial behaviour being able to be tackled effectively. This may be through direct benefit to them or indirectly through their parents or guardians sleeping better and being more relaxed.

In the local community

9.15. Where short-term lets are putting pressure on local housing, the use of control areas and additional measures under the licensing scheme will empower local authorities to manage the level of activity. This will help to improve access to housing and affordability in these areas. Children and young people living in these areas, or moving to these areas, will benefit from lower housing costs.

What likely impact – direct or indirect – will the policy/measure have on children and young people?

9.16. “Direct” impact refers to policies/measures where children and young people are directly affected by the proposed changes, e.g. in early years, education, child protection or looked after children (children in care). “Indirect” impact refers to policies/measures that are not directly aimed at children but will have an impact on them. Examples include: welfare reforms, parental leave, housing supply, or local transport schemes.

9.17. There are no direct impacts as the policy is not targeted at children or young people. In terms of indirect impacts, we consider that these are negligible with respect to children and young people as hosts. The indirect impacts for children of hosts and children and young people of guests, and as guests, are mixed: there may be a marginal additional cost reducing household income; however, they will benefit from the mandatory safety conditions in their own home or the home they are staying in. The indirect impacts for children as neighbours and in the local community are positive, as noise, nuisance and antisocial behaviour issues will be able to be tackled more effectively and housing pressures in hot spots can be alleviated.

9.18. Overall, the introduction of an effective and robust short-term lets licensing scheme, and control areas where local authorities deem these appropriate, is likely to have a positive impact on children and young people.

Which groups of children and young people will be affected?

9.19. Under the United Nations Convention on the Rights of the Child (UNCRC), “children” can refer to: individual children, groups of children, or children in general. Some groups of children will relate to the groups with protected characteristics under the Equality Act 2010: disability, race, religion or belief, sex, sexual orientation. “Groups” can also refer to children by age band or setting, or those who are eligible for special protection or assistance: e.g.

preschool children, children in hospital, children in rural areas, looked after children, young people who offend, victims of abuse or exploitation, child migrants, or children living in poverty.

- 9.20. We have not identified any particular groups that would be affected, and we do not know of any reason why the licensing of short-term lets would affect particular groups of children and young people more than others.

Will this require a CRWIA?

- 9.21. A CRWIA is not required as the policy will not affect children and there is unlikely to be any direct or indirect impact on children.
- 9.22. If there is any impact on children, it is most likely to be a neutral or positive impact, there is unlikely to be a negative impact on children.

CRWIA Declaration

- 9.23. A CRWIA is not required.

Authorisation

- 9.24. This screening assessment is approved by:

Policy lead: Andrew Mott, Head of Housing Markets, Strategy and North Programmes, More Homes Division.

Deputy Director: Brad Gilbert, Deputy Director More Homes, More Homes Division.

8 December 2020

10. Equalities Impact Assessment (EQIA)

10.1. This is a summary of the EQIA.

Summary of aims and desired outcomes of policy

10.2. The objectives are as set out at paragraph 8.4.

Executive summary

10.3. The EQIA demonstrates that there are no potentially negative impacts to equality groups as a result of the introduction of our short-term lets licensing scheme and planning control areas.

Background

10.4. The background is as set out in chapter 3.

The Scope of the EQIA

10.5. The EQIA draws on a range of stakeholder input and data, which has informed the development of the policy proposals for the regulation of short-term lets. In particular:

- a) Over 1,000 responses to our 2019 consultation on a regulatory framework for short-term lets and events in support of the consultation.
- b) Over 1,000 responses to our 2020 consultation on proposals for a licensing scheme and control areas, and virtual events and workshops in support of the consultation.
- c) Ongoing engagement and input from colleagues within Scottish Government, through the Short Term Lets Delivery Group.
- d) Independent research on the impact of short-term lets on communities, commissioned in 2019 to fill gaps in our evidence base.

Key Findings

10.6. No issues have been identified as a result of the EQIA process.

Recommendations and Conclusion

10.7. Our assessment is that the introduction of our short-term lets licensing scheme and planning control areas do not give rise to any equality issues.

11. Data Protection Impact Assessment

- 11.1. The purpose of this impact assessment is to report on and assess against any potential data protection impacts as a result of the Licensing Order and Control Area Regulations. This legislation may have an impact on the protection of personal data within the meaning of the General Data Protection Regulation (GDPR).
- 11.2. Implementation of the legislation will involve processing of personal data. For the purposes of the GDPR, the key term is “**processing**”, which is very broad in scope and includes (but is not limited) to collecting, storing, recording, altering, using, consulting, transmitting or erasing data- in short, just about any possible use. “**Personal**” is also very broad in scope and means any information relating to a living person, where that person can be directly or indirectly identified.

A. Introductory information

- 11.3. Author of report: Short Term Lets Policy Team, More Homes Division, Directorate for Housing and Social Justice.
- 11.4. The Licensing Order and Control Area Regulations are secondary legislation. They will be laid in December 2020 and, subject to the approval of the Scottish Parliament, come into force on 1 April 2021. Local authorities must have licensing schemes open to receive applications on 1 April 2022 and the processing of personal data under the licensing scheme will begin at that point.
- 11.5. Local authorities may choose to designate control areas under the Control Area Regulations at any time, subject to the procedures set out in the Regulations. The Regulations do not introduce any new processes; they may require more planning applications but the process for making planning applications is well established. For this reason, we do not consider the Regulations further in this assessment.
- 11.6. We are engaging with the Information Commissioner’s Office and will continue to do so as we develop and issue guidance to local authorities on the operation of the licensing scheme and work with them as they prepare for implementation.
- 11.7. We have held two public consultations in 2019 and 2020 on the regulation of short-term lets; we consulted on a broad framework for regulatory proposals in 2019, and consulted again on detailed proposals in autumn 2020.

11.8. A small number of respondents raised privacy concerns about the sharing of personal data:

- within local authorities (between departments);
- between local authorities; and
- through the public register of short-term lets.

11.9. One local authority suggested that they had no concerns about sharing personal data relating to secondary letting, but had some concerns regarding home sharing or home letting.

11.10. Date of report: 8 December 2020.

11.11. Name of Information Asset Owner for relevant business unit: Brad Gilbert, Deputy Director, More Homes.

11.12. Dates of review for DPIA:

Review date	Details of update	Completion Date	Approval Date
8 December 2020	Version 1.0 published with 2020 consultation report.	8 December 2020	8 December 2020
March 2021	Review with guidance for local authorities and hosts and platforms		
March 2022	Review before licensing schemes open		
March 2023	Review after one year of live operation		

B. Policy objectives of the legislation

11.13. The wider background to this work and policy objectives are set out in chapters 3 and 8 of this report.

11.14. The Licensing Order introduces a requirement on local authorities to establish a licensing scheme for short-term lets which prioritises safety. The safety component of the licensing scheme will be mandatory for all short-term lets in Scotland. Local authorities will also have powers to introduce additional conditions to respond to issues such as anti-social behaviour and noise, in order to address local issues of concern.

- 11.15. In addition to raising safety standards, the licensing scheme will help local authorities to understand what is happening in their area, improving the effective handling of complaints. At present the data available on short-term lets are limited to Airbnb's activity and self-catering properties registered on the Non-Domestic Valuation Roll. Information on Airbnb's activity includes data published by Airbnb (in the form of reports, and not datasets) and those published by Inside Airbnb (free of charge) and Air DNA (with fee), which are scraped from the Airbnb website.
- 11.16. As all short-term lets will require a licence, the licensing scheme will provide accurate up-to-date data on the number of short-term lets operating in Scotland, and their exact location (as well as other relevant data). The licensing scheme will be delivered by local authorities; therefore we require local authorities to share data with Scottish Government on an ongoing regular basis (quarterly). Scottish Government will use the data to monitor trends in the number of short-term lets, applications granted or refused etc. This data will form an evidence base for any future interventions by Government, if additional measures are needed.
- 11.17. The overall objectives, with regard to the collecting and processing of data, are to:
- a) Require local authorities to collect sufficient data for monitoring and enforcement purposes, including setting out requirements for the sharing of relevant information between local authorities for hosts operating in more than one area (**operational data**). This operational data will need to be specified precisely so it is consistent across local authorities and can be shared effectively, if not done through the public register.
 - b) Require local authorities to share data, including the number, type and location of short-term lets, with Scottish Government on an ongoing regular basis (**analytical data**). The exact data to be shared shall be specified by Scottish Government to ensure consistent data is received from all local authorities which can be combined into a national database for subsequent analysis. Every data field will need to be defined precisely and have an associated quality assurance check specified for it.
 - c) Require local authorities to publish a register of short-term let licences and their status (granted, refused, being determined, revoked, lapsed etc.) which can be accessed by members of the public (**public register**). Local authorities will be required to publish the register on a quarterly basis. The public register will contain a limited amount of personal information (e.g. to allow people to check whether their neighbour had a licence to operate a short-term let) but we might want local authorities to share further data with

Scottish Government. The public register would be similar to the landlord register, and any local authority public HMO registers (e.g. Fife).

C. The processing of personal data

11.18. The table below sets out personal data to be processed by each licensing authority in administering the licensing scheme. Some of the data below will be publically available (**bold**) and the rest will be restricted to those administering the licensing scheme.

11.19. Applicant(s) and any named agent(s) on the licensing application may be affected by the proposed processing.

Variable:	Data Source:
• Applicant(s) / Licence holder(s) name (title, first name, surname)	Licence application
• Agents (day-to-day manager) name (if applicable)	Licence application
• Property (premises) address (including postcode and URN)	Licence application
• Contact details – address, address history, email, telephone (applicant, agent, day-to-day manager)	Licence application
• Date and place of birth (for all applicants, and any agent(s))	Licence application
• Unspent convictions involving: i. fraud and dishonesty; ii. violence; iii. drugs; iv. firearms; v. sexual offences	Licence application and Police Scotland background checks ¹⁶

11.20. The processing of the above data is required for the operation of the licensing scheme. Personal data, such as name, date and place of birth, address are required in order for local authorities and Police Scotland to carry out background checks to determine whether or not the applicant(s) and any agent(s) are fit and proper.

¹⁶ In some cases, the police may regard spent convictions and police intelligence as relevant information.

11.21. We are not proposing to collect any special category data.

Data minimisation

11.22. The personal data we are requiring local authorities to process is necessary in order to comply with their requirements to establish whether or not an applicant (or their agent) are fit and proper.

D. Engagement of rights under ECHR

11.23. Article 8 of ECHR concerns a person's right to respect for their private and family life, home and correspondence and prohibits interference "... *except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*"

11.24. The Licensing Order protects these rights as follows:

- a) Introducing mandatory licence conditions for safety for all short-term lets will give neighbours of short-term lets peace of mind that they are operating safely, particularly those living next to short-term lets in flatted or tenement buildings.
- b) Other licence conditions, imposed by local authorities as needed, will help manage noise, nuisance and antisocial behaviour, which has stopped some neighbours enjoying their home.
- c) In some areas, high concentrations of short-term lets have affected the availability and affordability of homes. The licensing scheme and control areas give local authorities an effective means of managing high concentrations of short-term lets in order to balance the needs and concerns of local communities with the wider tourism and economic benefits of short-term lets.

11.25. In consultation, some hosts suggested that the legislation would negatively impact their Article 8 rights by restricting their ability to use their home for the purposes of short-term let. We consider this will only happen where it is the policy intention of the local authority and this will only be the case in circumstances where it protects the rights and freedoms of others or is for the greater economic well-being of their local community.

E. Regulation of technology

11.26. Each local authority must publish a register of short-term lets in their area, likely to be on their website. The public register will include the following personal data:

- Applicants' / licence holders' names (title, first name, surname)
- Names of agents (day-to-day manager) (if applicable)
- Property (premises) address (including postcode and licence URN).

11.27. Additional personal data will be processed by local authorities in order to determine whether or not persons named on the application form are fit and proper. This additional data may be shared internally between local authorities, and statutory consultees, such as Police Scotland, but will not be published.

Impact on the use of technology

11.28. Neighbours of short-term lets will be able to establish if a neighbouring property has a licence to operate as a short-term let via the public register, allowing them to raise any concerns with the relevant local authority (for example if they suspected a property was operating without a licence).

11.29. The licensing scheme will not require change the operation of an established public register or on-line services. However, platforms and holiday letting agencies (private sector organisations) will need to include licence URNs and EPC ratings on adverts and property listings.

F. Data to be used as evidence

11.30. Data will be stored in relation to applicants and their agents in relation to an active, suspended or revoked licence or a licence application. Data will also be stored in relation to the licence conditions in respect of licensed premises. This data will facilitate investigation of offences under the Licensing Order (such as operating without a licence) and potentially support the police in investigating serious and organised crime where criminals are making use of short-term lets for sex-trafficking or drug dealing.

G. Impact specific groups of persons

11.31. We have completed an EQIA, CRWIA and assessment against the Fairer Scotland Duty, all set out in this report, none of which have identified any adverse impacts on children or people with protected characteristics.

H. Data sharing between organisations

11.32. Personal data will be shared by local authorities as follows:

- with Police Scotland in order to complete background checks;
- with the Scottish Fire and Rescue Service as the licensed activity would be carried on in premises;
- internally as needed between relevant local authority departments, such as housing, licensing, planning and environmental health;
- with other local authorities (e.g. if an applicant had a licence revoked in one local authority and operated in another local authority); and
- limited personal data with Scottish Government and the public, by publishing data on a public register.

Lawful basis for sharing

11.33. Local authorities are required by the Licensing Order to establish and maintain a licensing scheme in their area for all short-term lets.

11.34. Paragraph 5(3) of Schedule 1 to the 1982 Act sets out that local authorities must refuse applications for a licence if the applicant is not a fit and proper person to be the holder of the licence. In order for local authorities to do this, they will be required to collect and process personal and sensitive information. This includes date and place of birth, home address, address history, and unspent convictions for certain types of offences.

11.35. The Licensing Order (by amending paragraph 14 of Schedule 1 to the 1982 Act) requires local authorities to publish data, and share data with the Scottish Government, on an ongoing quarterly basis. It also allows local authorities to share information as they consider appropriate about the suspension, revocation or variation of a licence with other licensing authorities.

I. Controversial or significant public interest in processing of data

11.36. During our recent consultation, neighbours were very supportive of our proposals to require local authorities to publish a public register of short-term lets. Some hosts raised concern about privacy impacts. However, the only personal data we are proposing to publish is:

- Applicants' / licence holders' names (title, first name, surname)
- Names of agents (day-to-day manager) (if applicable)
- Property (premises) address (including postcode and licence URN).

11.37. This is in line with the personal data published on the landlord register (for private landlords) and similar to that for HMOs. In addition, the 1982 Act requires local authorities to keep a register which shall be:

“...open to the inspection of any member of the public at such reasonable times and places as may be determined by the licensing authority and any member of the public may make a copy thereof or an extract therefrom” (1982 Act, Schedule 1, paragraph 14)

11.38. Local authorities might be expected to deal with a large volume of these requests, so publishing a register and keeping it up-to-date should reduce the administrative burden on local authorities and reduce costs (and therefore fees).

11.39. The public register will also provide benefits to both guests and neighbours:

- Guests would be able to verify that the property they have booked, or are looking to book, has a licence to operate, meaning that it should comply with mandatory safety conditions. (We would not expect guests to do this routinely but they may do so if they have doubts or concerns.)
- Neighbours will be able to check if neighbouring properties have a licence to operate, and will be able to share any concerns about properties operating without a licence with local authorities, which will assist with enforcement.

11.40. It will be for local authorities, as the data controllers to ensure that appropriate safeguards are in place in relation to the processing of personal data.

J. Changes to other legislation

11.41. No consequential amendments above and beyond those in the Licensing Order are required in relation to the processing and sharing of data related to the short-term lets licensing scheme.

K. Codes of conduct and guidance

11.42. We will be publishing non-statutory guidance for local authorities, as the data controllers responsible for operating the licensing schemes for short-term lets in their areas.

11.43. We will also be publishing non-statutory guidance for hosts and platforms. This guidance will explain to hosts how their data will be used by local authorities.

L. Summary: Data Protection Impact Assessment

Data controllers and safeguards

11.44. The licensing scheme for short-term lets will be administered by local authorities. Each local authority will be the data controller for the licence scheme they operate in their area, and therefore they will be required to carry out the operational aspects of a DPIA to assess any privacy risks associated with the actual processing of personal data, such as collecting, sharing and publishing etc. They will be responsible for developing appropriate privacy notices, data sharing agreements, ensuring secure transfers of data, deciding how the information will be collected (online or paper form), who will have access to that data, providing data protection training to their staff and dealing with personal data breaches.

Data Security

11.45. We expect local authorities to develop formal data handling procedures, taking into account privacy issues to ensure personal data is handled appropriately and securely. For example, the use of information sharing protocols and agreements, penetration testing and other IT cyber security measures. They should be doing this anyway in respect of other personal data which they already receive and process in relation to a host of functions they exercise.

11.46. To ensure that the Scottish Government handles personal data appropriately and comply with its legal obligations under the Data Protection Act, it has developed a number of policies and procedures that will assist in meeting its legal obligations in relation to the holding and processing of data including:

- Data Protection Policy;
- Data Handling Policy;
- Information Security Policy; and
- Information Asset Owners handbook.

11.47. We would expect local authorities to have similar policies and procedures in place with regard to handling personal data and complying with legal obligations. We will set out further detail on this in guidance for local authorities.

11.48. Where there is an unauthorised release of personal data, we will act in accordance with the Scottish Government procedures on handling a data breach.

Anonymity and pseudonymity

11.49. Scottish Government statisticians will only have access to personal data that is publicly available via the public register, at least initially.

11.50. If, in future, Scottish Government requires further personal data for analytical purposes, in addition to data published in the public register, this DPIA will be updated to reflect any new requirements.

11.51. Local authorities will be expected to ensure all data is periodically reviewed and erased or anonymised when it is no longer needed in line with the requirements of GDPR.

Data Handling Procedures

11.52. The application form and related processes are still to be developed by local authorities. As part of the development of these, we expect local authorities to consider how they can ensure that individuals required to provide sensitive personal data (for example in relation to unspent convictions) can do so in a confidential way without needing to disclose this information unnecessarily to other people who are part of the same application. For example, an applicant might not want to disclose this information to their agent. In order to assist local authorities to develop formal data handling procedures, we will work with them to assist them in ensuring that they take into account privacy issues to ensure personal data is handled appropriately and securely. They will need to consider, for example, the use of information sharing protocols and agreements, penetration testing and other IT cyber security measures.

Storage and disposal of data

11.53. Organisations must not keep personal data for longer than needed. Local authorities will be responsible for the storage and disposal of data when it is no longer needed. We expect that personal information will only be held as long as necessary for the effective administration of the licensing scheme.

11.54. We intend to outline the standard retention period in our guidance for local authorities. Some information will only need to be kept whilst a licence is operational but other information will be important to retain for longer for effective compliance and enforcement and assessing any future application by the same host.

11.55. Analytical data will be used to prepare an annual report summarising short-term let activity in Scotland, such as number and type of short-term lets by area. The analytical publications will not contain any personal data.

Identification Methods

11.56. Each licence holder will be given a licence number unique to the pairing of the licence holder and premises to which the licence applies. Under the Licensing Order, licence holders must include this number in all adverts and listings. This number will help to show that they are a licensed short-term let operator.

11.57. There are also a number of property URNs already in operation across Scotland, including those used by the Post Office, National Records of Scotland, the Land Registry and the valuation roll. These will assist local authorities in uniquely identifying premises, as the same premises could have several licences associated with it over time.

M. Impacts on decisions made about individuals, groups or categories of persons

11.58. Future policy interventions at a national and local level will be informed by the data provided by the licensing scheme. The key data Scottish Government are interested in are:

- Name of applicants and agents (to establish how many operate multiple properties).
- Address of property (to build a clearer picture of the location of short-term lets, and particular areas of high concentration).

11.59. We are also interested in other non-personal data, which the licence scheme will capture, such as:

- Short-term let type (home sharing or letting or secondary letting).
- Maximum occupancy.

N. Risks

11.60. We believe there are two key risks:

Risk	Mitigation
1. Release of personal data due to unauthorised access to an insecure IT system.	Local authorities to work with their IT systems provider/developer to ensure appropriate safeguards are built into the system to prevent unauthorised access to personal data. This could include consideration of similar measures already in place for existing licensing

	schemes under the 1982 Act, or other legislation.
2. Personal data compromised through accident or deliberate inappropriate sharing of personal data in the administration and processing of applications.	Clear and appropriate data and information sharing protocols agreed with relevant organisations. Privacy issues and data handling to form a key part of staff training. Appropriate supervision and vetting of staff.

O. Authorisation

- 11.61. The DPIA report should be signed by your Information Asset Owner (IAO). The IAO will be the Deputy Director or Head of Division or the relevant person in the business area sponsoring the Bill/proposals.
- 11.62. Before signing the DPIA report, an IAO should ensure that she/he is satisfied that the impact assessment is robust and has addressed all the relevant issues.
- 11.63. By signing the DPIA report, the IAO is confirming that the impact of the policy has been sufficiently assessed against individuals' right to privacy.
- 11.64. The results of the impact assessment must be published in the eRDM with the phrase "Legislative DPIA" and the name of the project or initiative in the title.
- 11.65. Details of any relevant information asset must be added to the Information Asset Register, with a note that a DPIA has been conducted.

I confirm that the impact of the Licensing Order and Control Area Regulations have been sufficiently assessed in compliance with the requirements of the privacy duty:

Name and job title of a IAO or equivalent: Brad Gilbert, Deputy Director, More Homes	Date each version authorised: 8 December 2020
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12. Fairer Scotland Duty

12.1. The final step of the Fairer Scotland Duty assessment process is to complete the summary template:

A. Summary of aims and expected outcomes of strategy, proposal, programme or policy

12.2. The policy objectives are set out in chapter 8.

B. Summary of evidence

12.3. The following sections summarise the evidence.

People on low incomes

12.4. At present there are both positive and negative impacts of short-term lets on people on low incomes.

12.5. Negative impacts include the impact of short-term lets on the availability of housing stock, due to homes being removed from existing residential stock for use as short-term lets. This can also, in turn, increase house prices and rents in the private rented sector. This was cited as a frequent concern in our 2019 consultation, and in ongoing correspondence the Scottish Government receive relating to short-term lets. This is more likely to be a significant concern in areas where there are significant concentrations of short-term lets. Our 2019 research¹⁷ noted that:

Short-term lets are geographically concentrated with localised intensity. Two local authority areas (City of Edinburgh and Highland) accounted for more than half of all active Airbnb listings in Scotland. Three-quarters of all listings were found in seven of Scotland's 32 local authority areas. A total of 24 wards in Scotland (out of 354) accounted for more than half of all active Airbnb listings. City Centre ward in Edinburgh was home to 8.5% of all Scottish Airbnb listings.

12.6. Pressures on supply due to short-term lets can have an impact on the ability for people to relocate to take up job opportunities. This was flagged as a particular concern in rural and island areas such as Skye and the Western Isles, where high numbers of short-term lets (and second homes) and a small private rented sector could make it difficult for people to relocate to take up job opportunities.

¹⁷ <https://www.gov.scot/publications/research-impact-short-term-lets-communities-scotland/pages/1/>

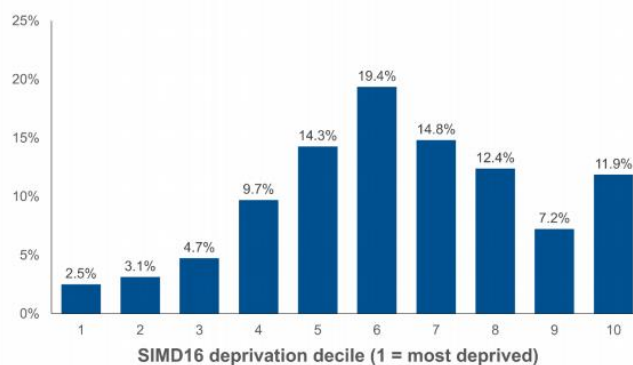
- 12.7. However, short-term lets may also have a positive impact for guests on low incomes, by offering a cheaper alternative to other forms of accommodation, such as hotels.
- 12.8. The home sharing and home swapping models of short-term letting also allow hosts to make extra money by renting out a spare room (or rooms) in their primary residence, or their entire home when they are away (for example, with work or on holiday). During our 2019 consultation, a number of hosts told us that this extra money could be important in helping them to maintain their mortgage payments, particularly if they were going through financial hardship, for example because of a redundancy.

People living in deprived areas

- 12.9. Our research demonstrated that there are proportionally more Airbnb listings in the least deprived decile than the three most deprived deciles in total:

Across Scotland as a whole, there were proportionally more Airbnb listings in less deprived areas, particularly those in the middle of the SIMD 2016 rankings. There were more Airbnb listings (11.9% of the Scottish total) in the least deprived decile than there were in the three most deprived deciles combined (10.3%). The single biggest clustering of Airbnb listings was found in decile 6 areas, which are typically neither very deprived nor particularly affluent (e.g. Fountainbridge in Edinburgh, Garnethill in Glasgow). These areas accounted for 19.4% of all Scottish Airbnb listings, as shown in Figure 1.

Figure 1: Scottish Airbnb listings (%) by SIMD decile (where decile 1 is most deprived)



Source: Inside Airbnb, May 2019, Scottish Government for SIMD 2016

- 12.10. Therefore, any local economic benefits of short-term lets are less likely to be evenly distributed.

12.11. The one major outlier to this national picture is in Glasgow, where the greatest number of short-term lets are in the most deprived decile (14.5%).

Alternative approaches to policy

12.12. Collaborative economy platforms, such as Airbnb, have facilitated rapid growth in short-term lets. For example, Edinburgh has grown from having 8 Airbnb listings in 2009 to over 13,500 in 2019¹⁸. As such, regulatory approaches to manage short-term lets across the world are in their infancy and the evidence about their impact is limited at present.

12.13. Various governments have introduced regulation of short-term lets at country, city, local or municipality levels. Examples of regulation include registration schemes, limits on the number of days per year a property can operate as a short-term let, limits on the number of listings per host or restrictions or outright prohibitions in certain areas.

12.14. We committed to taking an evidence-based approach to regulation, and avoiding unintended consequences are key. Some approaches, such as a 90 day limit on letting, may mean that a property let out for 90 days can make enough money to remain viable and the property sits empty for 275 days of the year. As the Scottish Government is working to reduce the number of empty homes, this would not be a satisfactory consequence of regulation (nor would it be an efficient use of housing stock). Our licensing scheme was announced after careful consideration of the available evidence, including responses to our 2019 consultation and our independent research, and allows us to make progress in this Parliamentary session to address what is a pressing issue for a number of local communities. Our licensing scheme will also provide local authorities, and the Scottish Government, with accurate data which will continue to build our evidence base on short-term lets, which will help identify and shape any further interventions (if necessary).

Evidence gaps

12.15. We completed an initial evidence review on short-term lets¹⁹, which was published alongside our 2019 consultation. Following the initial review, we identified that there were gaps in our evidence relating to the impact of short-term lets on communities. In order to bridge that gap, we commissioned Indigo House to carry out research in five locations across Scotland (Skye,

¹⁸ <https://www.gov.scot/publications/short-term-lets-annexes-consultation-regulatory-framework-scotland/>

¹⁹ <https://www.gov.scot/publications/short-term-lets-annexes-consultation-regulatory-framework-scotland/>

Fort William, East Neuk, Edinburgh and Glasgow) into the impact of short-term lets on communities.

- 12.16. Limited data is available on the number and type of short-term let listings. Airbnb has provided data to the Scottish Government, but we do not have data from other platforms. Airbnb data is Scotland-wide and includes urban and rural locations. As the dominant short-term let platform in Scotland, the data give us a good indication of overall numbers in the most popular locations in Scotland. However, it is not very granular. For example, Airbnb data provides a figure for the total listings in Edinburgh but not broken down by council ward. It is widely accepted that there are areas in Edinburgh with high concentrations of short-term lets and other areas with low concentrations. Our independent research used scraped data from InsideAirbnb to build up a picture of short-term letting across Scotland, identifying that short-term lets are geographically concentrated.
- 12.17. Two local authority areas (City of Edinburgh and Highland) accounted for more than half of all active Airbnb listings in Scotland. Three-quarters of all listings were found in seven of Scotland's 32 local authority areas. A total of 24 wards in Scotland (out of 354) accounted for more than half of all active Airbnb listings. City Centre ward in Edinburgh was home to 8.5% of all Scottish Airbnb listings.
- 12.18. In addition, listings on Airbnb in more rural areas include unconventional dwellings such as pods, which do not remove homes from existing residential stock. Therefore, even where scraped data exists at ward level, it does not give us the full picture of the impact of short-term lets on the housing market.
- 12.19. There are also issues associated with scraped data such as double counting, for example, where a property is listed on multiple platforms. Also listings showing as unavailable may be so because they are booked or were never offered for the specified date and it is hard to distinguish between the two.
- 12.20. As previously outlined, our scheme will provide data to allow the Scottish Government to monitor and evaluate the impact of our proposals. Further action can be taken in the next Parliament if we continue to see issues.

Stakeholder Engagement

- 12.21. The stakeholder engagement process is summarised in chapter 3 of this report.

C. Summary of assessment findings

Potential Improvements

12.22. Two key areas were considered for possible improvement to reduce inequalities of outcome:

- a) the setting of fees in terms of the impact on disadvantaged households as hosts; and
- b) the inclusion of unconventional dwellings.

a) Fees

12.23. In developing detailed proposals, one key area to consider in terms of the Fairer Scotland Duty related to fees. Our proposals were set out in our 2020 consultation paper at paragraphs 6.61 to 6.65. We will not be specifying the levels that local authorities should charge, as this will depend on the volume of activity in their area and their cost base. Local authorities have wide-ranging flexibility to vary fees by a number of parameters including size and type of short-term let and to offer discounts for low volume activity.

12.24. Local authorities could put in place a set of fees which take into account property size, the time for which the accommodation is available for letting and distinguish between home sharing and letting, and secondary letting. The benefit of this is that the fees could, broadly speaking, be proportionate to income from the activity. An approach like this could keep fees low for those who wish to let a spare room, or rooms, in their home on an occasional basis. Short-term lets can provide a way for households to keep up with mortgage payments through financial difficulties, such as break-ups and redundancies.

12.25. As the licensing scheme will be delivered by local authorities, the fee structures will vary by local authority area depending on a number of cost factors including rurality, levels of compliance and inspection; these and others are discussed in more detail in the BRIA. Local authorities can only use fees to cover costs incurred by establishing or operating the licensing scheme.

12.26. We consider the broad powers we proposed to give local authorities, both in terms of how they operate the licensing scheme and how they charge fees, together with assumptions about how hosts might pass costs on to guests, discussed further in the BRIA, give local authorities the ability to mitigate any potential adverse impacts for disadvantaged households acting as hosts.

b) Unconventional Dwellings

12.27. In our consultation paper, we proposed excluding unconventional dwellings (such as pods) from the definition of a short-term let, principally as they do not remove homes from residential stock and also due to concerns around potential complexities in how the mandatory safety conditions would apply to

them. However, a number of respondents to our consultation questioned the exclusion of unconventional dwellings, principally on health and safety grounds. This is discussed at paragraph 5.4 of the report and the Scottish Government has decided to include static unconventional accommodation within the definition of short-term let.

12.28. The principal benefit of this change is that it will extend safety protections to guests; no matter whether they are staying in traditional self-catering accommodation, or an unconventional dwelling such as a pod or a yurt. It can often be the case that unconventional dwellings are cheaper to rent than conventional dwellings, and therefore exclusion may have had a greater impact on households and individuals on low incomes.

12.29. If unconventional dwellings were to fall outside the scope of regulation, then it is likely that the amount of this type of accommodation would grow, increasing the safety risk in proportion. Additionally, bad hosts, such as those who are not fit and proper persons, and poor practice would be likely to centre on this type of accommodation.

12.30. By broadening the inclusion of unconventional dwellings it also ensures consistency and a level playing field across the board for hosts. Further, the estimates of short-term let numbers across Scotland include unconventional dwellings. By including them within the definition of a short-term let, it potentially reduces the fee per licence in some (rural) areas where conventional accommodation is relatively diffuse. This then reduces the cost passed on to guests, including those from disadvantaged households.

Changes

12.31. We have amended the definition of short-term let to include unconventional dwellings. The expected outcomes are:

- a) Consistency of safety standards across all short-term lets, irrespective of whether they are a traditional holiday cottage, residential unit converted to short-term lets, or a glamping-style pod.
- b) Guests and neighbours of short-term lets can be confident that they are all adhering to a common set of standards, and that local authorities have powers to impose additional licence conditions to tackle any issues specific to an individual property or local area.
- c) Prevention of migration of bad hosts to unconventional dwellings in order to keep operating.

Conclusion

12.32. We have refined our proposals following the 2020 consultation. This assessment covers the change to include unconventional dwellings within the definition of a short-term let. More details can be found in chapters 1 to 7 of this report.

12.33. In addition, we will continue to monitor the impact of our proposals, and we are prepared to take action in the next Parliament if we continue to see issues, or evidence demonstrates a need for further intervention.

D. Authorisation

12.34. Approved by:

Brad Gilbert

Deputy Director, More Homes
Scottish Government

13. Island Communities Impact Assessment

Introduction

- 13.1. Section 7 of the [Islands \(Scotland\) Act 2018](#) (“the 2018 Act”) sets out a specific duty for relevant public bodies, including the Scottish Ministers, to “have regard to island communities” in carrying out their functions. A related duty under section 8 of the 2018 Act requires relevant authorities to undertake an Island Communities Impact Assessment (ICIA) “in relation to a policy, strategy or service which, in the authority’s opinion, is likely to have an effect on an island community which is **significantly different from its effect on other communities** (including other island communities) in the area in which the authority exercises its functions.”
- 13.2. This screening assessment is of the potential impact of the Scottish Government’s proposals in respect of the regulation of short-term lets on island communities. Island communities are defined in the 2018 Act as:
- consisting of two or more individuals, all of whom permanently inhabit an island (whether or not the same island), and
 - based on common interest, identity or geography (including in relation to any uninhabited island whose natural environment and terrestrial, marine and associated ecosystems contribute to the natural or cultural heritage or economy of an inhabited island).
- 13.3. Whilst the relevant provisions in the 2018 Act are not yet in force, this screening assessment has been prepared as if it were.

Objectives

- 13.4. The objectives for the licensing scheme and control areas are set out in chapter 8.

Application of policy to island communities

- 13.5. The licensing scheme and powers to establish control areas are being created by the Licensing Order and Control Area Regulations. These SSIs are being laid in December 2020 and, subject to the will of the Scottish Parliament, should come into force on 1 April 2021.
- 13.6. Our proposals deliver on a commitment made in Programme for Government 2018-19 to give local authorities the powers they need to balance the economic and tourism benefits of short-term lets with wider community needs and interests.

- 13.7. The principal component of our licensing scheme is a set of mandatory safety standards which will apply to all short-term lets across Scotland. It is right that guests should be assured that any short-term let they book is safe: no matter whether the property is a cottage on Canna, or a flat in central Edinburgh.
- 13.8. In addition, local authorities will have discretion to add further licence conditions tailored to local needs and circumstances. Needs and circumstances will vary from urban, to rural and island areas, and indeed within different urban, rural and island areas. Our proposals provide consistency on safety standards across Scotland, but flexibility for local authorities to adapt measures to suit their communities' needs.
- 13.9. Local authorities will also be able to establish control areas covering all or part of their area. Highland Council, for example, could choose to designate all or part of Skye as a control area where planning permission would always be required for a change of use from a dwellinghouse to secondary letting (a whole property short-term let).
- 13.10. Taken together, these powers will give local authorities flexibility to achieve a balance that is right for the communities they serve.

Current situation on the islands

- 13.11. Short-term lets can offer people a flexible and cheaper travel option, and have contributed positively to Scotland's tourism industry and local economies across the country. In certain areas, particularly tourist hot spots, high numbers of short-term lets are causing problems and often making it harder for people to find homes to live in. This is true, both in rural and island locations as well as urban areas.
- 13.12. Engagement with stakeholders, responses to our consultation and evidence from our research identified up a number of positive and negative impacts of short-term lets relevant to island communities.
- 13.13. **Positive** impacts include:
- a) Short-term lets support the tourism and visitor economy, which can be vital to island communities through:
 - (i) income received by hosts,
 - (ii) support for local businesses such as restaurants and shops by short-term let guests, and
 - (iii) employment opportunities, such as cleaning and maintenance.

- b) Short-term lets support the wider rural economy through providing accommodation for seasonal workers.
- c) A number of hosts in rural and island areas noted that running a second property (or properties) as a short-term let provided them with full-time employment and allowed them to sustain their position in the community. They noted that alternative employment opportunities were often limited.

13.14. Tourism-related enterprises are over-represented relative to the national average in many rural areas: for instance, Argyll & Bute, and Highland, have the highest proportion of tourism businesses in Scotland as a share of their business sector overall²⁰.

13.15. **Negative** impacts included:

- a) Reduced availability of residential housing – particularly in areas where there are high concentrations of short-term lets and/or second homes. We have heard concerns about people being unable to take up jobs in certain locations, including Skye and the Western Isles, due to lack of available housing²¹.
- b) Increased strain on local public services.
- c) Negative impacts on communities' quality of life, for example due to noise and anti-social behaviour. The majority of noise and anti-social behaviour concerns related to urban areas, and tenement or flatted dwellings where neighbours live in close proximity. We are also aware that noise and anti-social behaviour can be an issue in rural and island areas, particularly from larger 'party mansion' type properties.

What data is available about the current situation in the islands?

13.16. Our research²² into the impact of short-term lets on communities found that just over half (51%) of short-term lets in Scotland were found in just 24 council wards (out of 354), demonstrating that short-term lets are geographically concentrated.

13.17. Of those 24 wards, 4 include island communities as follows:

²⁰ See *Tourism in Scotland; the economic contribution of the sector* (2018) commissioned by the Tourism Leadership Group:

<https://scottishtourismalliance.co.uk/wp-content/uploads/2019/06/Tourism-Economic-Narrative.pdf>

²¹ Note that housing shortages in island locations could be down to a number of factors beyond short-term lets, including: second and homes, a smaller private rented sector than in urban areas and the challenge of trying to match need and demand in smaller communities.

²² <https://www.gov.scot/publications/research-impact-short-term-lets-communities-scotland/>

Ward	Entire Home	Private Room	Shared Room	Total	% of total	Dwellings (2017)
Skye	663	412	8	1083	3.4%	16,759
Oban North and Lorn ²³	332	108	1	441	1.4%	5,171
Caol and Mallaig ²⁴	244	172	9	425	1.3%	3,971
Oban South and Isles ²⁵	263	116	12	391	1.2%	5,894

13.18. In May 2019, some 1.2% of homes in Scotland were listed on Airbnb (as home sharing, home letting or secondary letting). However, in Skye this rose to 18.6% (the highest penetration rate by ward in Scotland). For context, the penetration rate in Edinburgh City Centre Ward was 16.2%.

13.19. The research also provided a breakdown of the total number of Airbnbs in operation in each local authority, including the three local authorities that exclusively cover island areas, as illustrated in the table below.

Local authority	Entire home / apartment	Private Room	Shared Room	Total (May 2019)	% of total (Scotland wide)
Na h-Eileanan Siar	397	113	3	513	1.6%
Orkney Islands	198	98	0	296	0.9%
Shetland Islands	163	62	0	225	0.7%

13.20. The total population of Scotland's islands, as at the 2011 census, was 103,702²⁶. The total population of Scotland at the 2011 census was 5,295,000. This suggests that just under **2%** of Scotland's population lives on islands (in 2011).

13.21. The number of short-term lets on the islands of Skye, Na h-Eileanan Siar, Orkney Islands, Shetland Islands is **6.6%** (2,120) of the Scottish total. The

²³ Includes Luig

²⁴ Includes Rum, Canna and Eigg

²⁵ Includes Mull, Tiree and Coll

²⁶ <https://www.scotlandscensus.gov.uk/documents/censusresults/release1c/rel1c2sb.pdf>

number of short-term lets operating across all islands in May 2019²⁷ would be significantly greater, with strong contributions from Arran, Bute and Mull, for example. This emphasises the importance of tourism, and short-term lets, for island communities compared to Scotland as a whole.

13.22. Although Airbnb have a large share of the short-term letting market, they are not the only platform for short-term lets in Scotland. Homeaway (Expedia) and Booking.com, as well as other platforms and independent operators with their own website or marketing channels, are important too. The above data quoted only covers short-term let properties listed on Airbnb, and is a snapshot of the picture in island communities.

How does any existing data differ between different islands?

13.23. We have limited data at present on short-term let numbers by island, and the data we have relates only to Airbnb properties. Our licensing scheme will provide local authorities with clear data on the exact number, type, and location of every short-term let across Scotland. However, even from the limited data available, it is clear that the intensity of activity varies significantly from island to island.

Are there any existing design features or mitigations in place?

13.24. At present there is no statutory regulation of short-term lets per se but there is a range of existing legislation that applies to short-term let accommodation.

13.25. There are also a number of trade bodies representing the sector, such as the Association of Scotland's Self Caterers and the UK Short Term Accommodation Association, both of whom have developed voluntary codes of conduct for their members, focussed on safety and quality.

Consultation

13.26. The consultation process and outcomes are covered in chapters 1 to 7 of this report.

Screening decision

13.27. Our proposals for regulation are likely to have an effect on island communities which are significantly different from its effect on other communities (including other island communities). This is because the level of short-term let activity, and its impact, varies significantly by island. For example, Skye has a

²⁷ Figures quoted in our research was based on InsideAirbnb data from May 2019 and is before the impact of the COVID-19 pandemic.

relatively high proportion of short-term lets, and longer tourism season compared with, say, Orkney.

13.28. Consequently, we consider that a full ICIA is required.

Island Communities Impact Assessment

13.29. In the following paragraphs we have set out areas in which the licensing scheme and control areas may impact islands differently to mainland Scotland.

Licensing related costs (compliance and fees)

13.30. Island communities may face increased costs in order to comply with the requirements of our licensing proposals. This may be through higher licence fees than urban areas due to rurality and less opportunity for economies of scale in many areas; although this is not necessarily the case for HMO fees, see below. It may also be due to the cost of implementing safety measures in order to meet the mandatory standards required to obtain a licence. For example, if a contractor was required to travel to an island to complete an electrical safety check, this may be more expensive than for urban, or even rural, mainland areas.

13.31. The majority of our mandatory licensing requirements relate to either existing legislation or good practice, that many responsible island and mainland hosts will already be following. In such cases, there will be little additional cost over and above the licensing fee. In the cases where there are significant costs, as discussed in the BRIA, these costs may be passed on in part or in full to guests. These additional costs are, arguably, more readily passed on to guests in closed system. For example, anyone letting out a cottage on Orkney will have to meet the same mandatory conditions and anyone wanting to stay in a cottage on Orkney will have to stay in a cottage meeting these conditions.

13.32. The cost of licence fees will be set by local authorities at a level to cover the costs they incur in setting up and running the licensing scheme. This is already the case for existing civic licence schemes, as well as HMO licensing. The below table sets out HMO licensing fees for island-based local authorities, and other local authorities where their area contains significant island settlements.

Local Authority	Licence Duration	Number of occupants ²⁸	Application Fee	Renewal Fee
Argyll & Bute	Up to 3 years	Up to 10	£848	-
Highland	Up to 3 years	Up to 10	£801	-
Na h-Eileanan Siar	Up to 3 years	Flat fee	£290	£220
North Ayrshire	Up to 3 years	Flat fee	£959	£716
Orkney	Up to 3 years	Up to 9	£440	-
Shetland	Up to 3 years	Up to 6 persons	£229	-

13.33. To put this in context, across Scotland HMO fees range from £229 (Shetland) to £1,906 (Glasgow). It is notable that the three local authorities covering islands-only areas²⁹ have some of the lowest HMO fees in Scotland.

13.34. Ultimately, the fees will be set by individual local authorities taking into account a range of factors, which include:

- geography and rurality;
- staffing and IT requirements, and any other existing overheads;
- accuracy of applications and numbers of objections and complaints;
- numbers of short-term let properties and turnover rates;
- the type of short-term lets being licensed (home sharing, home letting, and secondary letting); and
- the level of compliance and the inspection regime (e.g. physically inspecting all properties, a sample of properties, or accepting certification).

13.35. Further detail on licence fees and compliance costs has been set out in our Business and Regulatory Impact Assessment (BRIA).

²⁸ Many local authorities set fees based on number of occupants but some choose to have a flat fee structure.

²⁹ Na h-Eileanan Siar, Orkney and Shetland.

Seasonality

13.36. A number of stakeholders highlighted that certain islands have much shorter tourist seasons than others, and asked whether licence fees would take this into account. We are not specifying the fees that local authorities should charge, as this will depend on the volume of activity in their area and their cost base. However, local authorities will have wide-ranging flexibility to vary fees by a number of parameters including size and type of short-term let and to offer discounts for low volume activity. This should be sufficient for local authorities to take seasonality into account when setting their fee structures, if they felt that would be appropriate because it varies across their area. Local authorities will need to be mindful to ensure that income from fees is sufficient to cover their costs in running the scheme.

13.37. However, where a whole local authority area, such as Orkney, has the same season, clearly this cannot be a determinant for Orkney in setting fees. As discussed above, the cost of fees is more likely to be capable of being passed on to guests on islands and the cost per booking is likely to be marginal in any consideration of which island to visit.

Island-specific safety considerations

13.38. We are conscious that our mandatory requirements include elements such as gas safety inspections which may not be applicable to many island properties off the gas grid. Homes on islands are typically heated using fuel oil.

13.39. This was raised during one of our 2020 consultation workshops with local authority environmental health officers, in the context of whether or not to include unconventional dwellings within the definition of a short-term let. They suggested a general overarching requirement to ensure the accommodation was safe and noted that environmental health officers are capable of tailoring their inspections to the particular circumstances in each property. Where they are in any doubt, they would seek professional advice (e.g. from an electrician).

13.40. We will expand on this in guidance for local authorities, which we will publish in spring 2021.

Differing needs on different islands

13.41. A number of stakeholders have asked how we will ensure our legislation accounts for the distinct needs of different islands. For example, they noted that Arran and Skye have housing pressures for workers due to high concentrations of short-term lets and second homes, whereas other islands do not.

13.42. We believe that our licensing scheme and powers to introduce control areas provide the right combination of national consistency and local flexibility that will allow local authorities to strike the right balance between tourism and economic benefits and community needs and concerns in their areas. Some local authorities may want to designate control areas in all or part of their area and might consider that some islands would benefit from such designation. Similar considerations apply in other urban and rural areas on the mainland.

Delivery

13.43. Delivery of the licensing scheme, and any control areas will be carried out by local authorities.

13.44. Local authorities may wish to designate all or part(s) of their area as control area(s). However, this would require some form of consultation and notification to Ministers for approval prior to designation.

13.45. The licensing scheme will also be delivered by local authorities, although there will be a degree of national consistency as all local authorities must apply the mandatory conditions, primarily relating to safety.

13.46. Local authorities may also wish to add additional conditions to individual and/or all licences they issue in order to strike the right balance between the tourism and economic benefits and community needs and concerns in their area.

Monitoring

13.47. Prior to COVID-19, there had been a period of significant growth in short-term lets over a few years:

According to the secondary data analysis, as of May 2019, across Scotland as a whole there were 31,884 active Airbnb listings based on analysis of Airbnb listings data provided by Inside Airbnb. The research showed that short-term lets have continued to increase, with a three-fold growth in Scotland between April 2016, when there were just under 10,500 Airbnb listings in Scotland, and approximately 32,000 as at May 2019.³⁰

13.48. Collaborative economy platforms, such as Airbnb, have undoubtedly facilitated rapid growth in the number of short-term lets. However, it is not always easy to distinguish between new businesses coming to market and existing businesses moving to these platforms as a route to market. Much of the available data on short-term lets is limited to that provided by Airbnb or scraped data from sources such as InsideAirbnb.

³⁰ Scottish Government research, 2019.

- 13.49. The licensing scheme will provide both local authorities and Scottish Government with accurate data on short-term let activity at a local and national level. The Scottish Government will publish an annual report on short-term let activity, aggregating data from local authorities, and closely monitor trends in data. We will closely monitor trends nationally and locally to determine if any further interventions are required.
- 13.50. Local authorities may wish to use data from the licensing scheme as part of the evidence base for the introduction of any overprovision policy or designation of a control area, although some may act sooner on existing evidence where there are obvious pressures.

Evaluation and Review

- 13.51. The process of developing our regulatory proposals for short-term lets involved extensive engagement with individuals and organisations from communities across Scotland, including island communities.
- 13.52. Our independent research in 2019 also involved engagement with residents, local authorities and businesses on Skye.
- 13.53. Engagement with individuals and organisations from island communities across Scotland identified four impacts that were significantly different:
- a) licensing-related costs;
 - b) seasonality;
 - c) island-specific safety considerations; and
 - d) differing needs on different islands.
- 13.54. Consideration has been given to each of these impacts during policy development, and we believe that our proposals strike the right balance between consistency across Scotland in relation to safety and flexibility for local authorities to tailor their schemes to best suit the needs of their local areas.
- 13.55. In addition, the scheme will providing clear and comprehensive data on the location, and type of short-term let activity (home sharing or letting, or secondary letting).

Recommendations

- 13.56. We consider that the legislation is appropriate for the whole of Scotland, including island communities, and offers considerable flexibility to local authorities on how it is implemented. We intend to work with local authorities,

not least in the preparation of guidance, as they work towards implementation so that we can facilitate the sharing of ideas and best practice. We hope this will be of particular value to island local authorities and local authorities with island communities.

13.57. The Scottish Government is prepared to take action in the next Parliament if we continue to see issues, or the data suggests that further interventions are required.

14. Pre-screening for the Strategic Environmental Assessment

- 14.1. A pre-screening notification³¹ was issued on 9 October 2020 with the following brief summary of the likely environmental consequences:

These new powers provide local authority with the means to manage short-term lets in order to improve safety and to try to provide a quality experience for visitors. It is our view that new powers would have no impact on most environmental receptors. Those receptors such as Human Health, Population and material assets which are likely to experience some positive effects from these new powers are still considered to be safely within the minimal threshold and therefore exempt from Strategic Environmental Assessment as per Section 7 of the Environmental Assessment (Scotland) Act 2005.

- 14.2. No issues were raised.

³¹ PRE01073.

RESPONDENT ORGANISATIONS

A Highland Estate with holiday lets
Aberdeen City Council
Aberdeenshire Council, Environmental Health
Abused Men In Scotland
Airbnb
ALACHO
Albero Properties Ltd
Applecross Community Company
Arbigland Farms
Ardlogie Self Catering
Argyll and Bute Council
Argyll Estates
Assembly Festival Ltd
Association of Independent Venue Producers
Association of Scotland's Self-Caterers
Association of Serviced Apartment Providers
Attadale Estate
Balmaqueen (partnership)
Bnbhost Limited
Boat of Garten Community Council
Bonnie and Beau Ltd.
Booking.com
Bookster
Border Holiday Homes
Borve Lodge Estate
Brahan Farms Ltd
Broadford and Strath Community council
Burgh Property
Caberfeidh Log Cabin
Cairngorms Business Partnership
Cavalry Park Drive Residents Association
Cawdor Estate
Chartered Institute of Housing Scotland
Citizens Advice Scotland
City of Edinburgh Council
Click Book Stay Ltd
Coast Properties
Comhairle nan Eilean Siar
Community Enforcement Team, Dumfries and Galloway Council
Community Land Scotland
COSLA
Crieff Hydro
Cromarty Community Development Trust
Dalmunzie Ltd
Destination Edinburgh Limited

Destination Orkney Ltd
Development Coll
Dickins Edinburgh Ltd
Discover Scotland Self Catering Cottages
Dod Mill
Donaldson Properties Ltd
Doncaster Little Theatre Ltd
Dowanhill, Hyndland and Kelvinside Community Council
Dundee City Council (Planning Team)
Dunpark Property Agents
Duns Castle Estates
East Lothian Council
East Renfrewshire Council
Eastside Cottages
Ecosse Unique Limited, trading as Unique Cottages
Edinburgh Estates Ltd
Edinburgh Festival Fringe Society
Edinburgh Flats Company Ltd
Edinburgh Hotels Association
Edinburgh Old Town Community Council
Edinburgh Old Town Holiday Apartments
Edlets.com
EDRADYNATE LTD
Electrical Safety First
Equity
Fodderty Lodge Cottages
Fort Residents Association
Fortis Property Ltd.
Gael Holiday Homes
Galloway Escapes
Gask House Farm Holidays
Glasgow City Council
Glen Dye Cabins & Cottages
Glen Nevis Holidays Ltd
GLM
Gordon Lennox Estate Company (Gordon Castle)
Grassmarket Residents Association
Gruline Estate
Guest Lets
Heads of Planning Scotland (HOPS)
Hideaway Lodges
Highland Hideouts
Highlands and Islands Enterprise
Hillhead Community Council
Historic Environment Scotland
Historic Houses
Homelands Trust Fife
Hot House Owners Association
Inkerman Court Residents Committee, Ayr
Island Holiday Cottages

J & J McConchie Ltd (trading as Mossyard)
J S Cruickshank (Farmers) Ltd
Kildermorie Partnership
Kougni Property Solution
Landlords' Little Helper
Laughing Horse Festivals Ltd
Law Society of Scotland
Leith Links Community Council
Local Residents Group, West Linton
Loch Ken Eco Bothies
Loch Lomond & Trossachs National Park Authority
Loch Tay
MacLeod Estate
Marchmont and Sciennes Community Council
Milton of Drimmie Farming
MK & GB Brown
Mull and Iona Community Trust
Nairn River Community Council
New Town and Broughton Community Council
Newcastleton & District Community Trust
Newhill Farm Cottages and Newhill Country Cottages
NFU Scotland
North Ayrshire Council
North Lanarkshire Council
Northumberland Street Mews Company
Novar Estate
Old Kyle Farm
Ornum Holiday Lettings
Outer Hebrides Tourism
Pant Farmhouse
PLACE
Pleasance Theatre Trust
Plockton & District Development Trust
Policy Connect
Port of Leith Housing Association
Principal Apartments
PROPERTYMARK
Renfrewshire Council - Officers Response
Reserve Travel Ltd
Rowanbank Holiday Cottages Isle of Arran
Royal Environmental Health Institute of Scotland
Royal Institution of Chartered Surveyors
Royal Town Planning Institute Scotland (RTPI Scotland)
Rural Housing Scotland
Sandcastle Holidays Scotland Ltd
Sandford Country Cottages
Saorphin Farm holiday cottages
Saorphin Farms Limited
Scottish Association of Landlords
Scottish Bed & Breakfast Association

Scottish Borders Council
Scottish Islands Federation
Scottish Land & Estates (SLE)
Scottish Property Federation
Scottish Tourism Alliance
Seabright Productions Ltd
Sharing Economy UK
Shelter Scotland
Shetland Islands Council
Shieling Holidays Mull Ltd
Skye Getaways Ltd
Small Isles Community Council
SNP Wester Ross Branch
Sonder
South Ayrshire Council
South Lanarkshire Council
Southside Community Council
Staycity UK Limited
StayManaged
Taymouth Marina
The Cockburn Association
The Dornoch Area Community Interest Company (who manage VisitDornoch)
The Dupplin Trust 2000
The Festival Partnership
The Fife Council
The Highland Council
The Lazy Duck
The Mull of Galloway Trust
The Red Door Gallery
The Royal Burgh of St Andrews Community Council
The SOLAR Licensing Working Group
Tullochwood Lodges
UK Hospitality
UK Short Term Accommodation Association
Visit Moray & Speyside
VisitArran
VisitScotland
West Dunbartonshire Council
West Harris Trust
West Lothian Council
Yair Estates 2009 Ltd
Yorkhil and Kelvingrove Community Council

CONSULTATION WORKSHOPS

1. We held 20 virtual workshops and events with representative groups of individuals and organisations from 16 September to 9 October 2020. In total, around 423 people attended our workshops, including the 230 at the ASSC Autumn Talk on 29 September at which Mr Ewing MSP and Scottish Government officials presented and answered questions from ASSC members.
2. The numbers at each event follow paragraph 3. This table shows the number of times met a representative from each of the categories (noting that some organisations attended more than one workshop):

Category	Interactions
Accrediting organisation	4
Channel manager	2
Holiday letting agency (or PRS)	6
Host (including ASSC Autumn Talk)	260
Hosting intermediary	4
Information provider	3
Neighbour (resident)	20
Local authority	81
Platform	8
Regulator ³²	23
Wider tourism and trade associations	12
TOTAL	423

3. There were 20 workshops and engagement events at which the following organisations **attended**. The number attending is in brackets in the left column, excluding Scottish Government officials. More were **invited** to most workshops:

WORKSHOP	ORGANISATIONS REPRESENTED
Accrediting organisations 16 September 2020 (4)	<ul style="list-style-type: none"> • Electrical Safety First • Firescape • Quality in Tourism • Superhog (Guardhog) Technologies

³² Here encompassing the Law Society, the Scottish Parliament and the Regulatory Review Group.

WORKSHOP	ORGANISATIONS REPRESENTED
STAA 17 September 2020 (9)	<ul style="list-style-type: none"> • Airbnb • Altido • HomeAway • Houst • PassTheKeys • SpotHost • STAA • Sykes Cottages
Heads of Planning Scotland 23 September 2020 (21)	<ul style="list-style-type: none"> • Aberdeen • Argyle & Bute • Cairngorms National Park • Dumfries & Galloway • East Dunbartonshire • East Lothian • Edinburgh • Fife • Glasgow • Highland • Loch Lomond & Trossachs National Park • North Ayrshire • Perth & Kinross • South Ayrshire • Stirling • Western Isles
Rural residents 24 September 2020 (2)	<ul style="list-style-type: none"> • <i>Individuals only</i>
Information providers 25 September 2020 (2)	<ul style="list-style-type: none"> • Scottish Fire and Rescue Service
COSLA 28 September 2020 (2)	<ul style="list-style-type: none"> • COSLA officials
ASSC Autumn Talk 29 September 2020 (230)	<ul style="list-style-type: none"> • ASSC • Visit Scotland (secretariat) • <i>A range of self-catering businesses and individuals</i>

WORKSHOP	ORGANISATIONS REPRESENTED
<p>Law Society of Scotland 30 September 2020 (11)</p>	<ul style="list-style-type: none"> • Law Society • Brunton Miller (<i>licensing subcommittee</i>) • Gilson Gray (<i>licensing subcommittee</i>) • TLT Solicitors (<i>licensing subcommittee</i>) • Perth & Kinross Council (<i>licensing subcommittee</i>) • West Dunbartonshire Council (<i>licensing subcommittee</i>) • Anderson Strathern (<i>planning subcommittee</i>) • Shepherd and Wetherburn (<i>planning subcommittee</i>) • Brodies (<i>planning subcommittee</i>) • City of Edinburgh Council (<i>planning subcommittee</i>) • SOLAR Planning Law Group(<i>planning subcommittee</i>)
<p>Councils: Environmental Health Officers 1 October 2020 (46)</p>	<ul style="list-style-type: none"> • Aberdeen • Aberdeenshire • Argyll & Bute • Clackmannanshire • Dundee • East Lothian • East Renfrewshire • Edinburgh • Fife • Glasgow • Glasgow • Highland • Inverclyde • Moray • North Ayrshire • North Lanarkshire • Orkney • Perth & Kinross • Renfrewshire • Shetland • South Ayrshire • South Lanarkshire • West Dunbartonshire • Western Isles

WORKSHOP	ORGANISATIONS REPRESENTED
<p>Residents: Urban 1 October 2020 (15)</p>	<ul style="list-style-type: none"> • Ayr Residents' Association • Britannia Quay Residents' Association • Cockburn Association • Duddingston Residents' Association • Edinburgh Southside Community Council • Firhill Community Council • Grassmarket Community Council • Leith and Newhaven Community Council • Leith Harbour & Newhaven Community Council • New Town & Broughton Community Council • PLACE Edinburgh • Stockbridge & Inverleith Community Council • <i>Individuals</i>
<p>Self-Caterers (ASSC) 2 October 2020 (13)</p>	<ul style="list-style-type: none"> • Aberdeenshire self-caterers • Angus self-caterer • Argyll & Bute self-caterer • ASSC • Cairngorm National Park self-caterer • Evergreen Property Ltd / ASSC Board • Gilson Gray (ASSC Legal) • Isle of Skye self-caterer • OLTA • Perth and Kinross self-caterers • Perthshire Tourism Partnership • Scottish Agri Tourism • Sutherland self-caterer • Visit Aberdeenshire • Wild Scotland
<p>Rural residents II 2 October 2020 (3)</p>	<ul style="list-style-type: none"> • West Harris Trust • <i>Individuals</i>
<p>Councils: Housing and Licensing Officers 5 October 2020 (12)</p>	<ul style="list-style-type: none"> • Dundee City • East Lothian • Edinburgh • Falkirk • Fife • Highland • North Ayrshire • Renfrewshire • West Dunbartonshire • West Lothian

WORKSHOP	ORGANISATIONS REPRESENTED
Visit Scotland & Tourism 6 October 2020 (9)	<ul style="list-style-type: none"> • ASSC • ETAG • Scottish Tourism Alliance • Skye Connect • UK Hospitality • Visit Arran • Visit Scotland
Airbnb hosts 6 October 2020 (18)	<ul style="list-style-type: none"> • Airbnb • <i>Individuals secondary letting</i> • <i>Individuals home sharing and home letting</i>
Local Government and Communities Committee, Scottish Parliament 7 October 2020 (7) ³³	<ul style="list-style-type: none"> • Members (informal session)
Information providers 7 October 2020 (1)	<ul style="list-style-type: none"> • Police Scotland
Platforms and channel managers 8 October 2020 (7)	<ul style="list-style-type: none"> • Airbnb • Booking.com • Booksterhq • GuestReady (Edinburgh) • HomeAway (Expedia) • Ketchum
Letting agents (and aparthotels) 9 October 2020 (6)	<ul style="list-style-type: none"> • EdLets • Sonder • Orbit • Palm Holdings (Edinburgh) • Rettie • StayCity

³³ Excluding clerks and Parliamentary staff.

WORKSHOP	ORGANISATIONS REPRESENTED
<p>Regulatory Review Group 9 October 2020 (5)</p>	<ul style="list-style-type: none"> • Professor Russel Griggs, Chair • Scottish Chambers of Commerce • Scottish Trades Union Congress (STUC) • Competition and Markets Authority (CMA) • Scottish Retail Consortium (SRC) • Confederation of British Industry (CBI) • Forum of Private Business (FPB) • Institute of Chartered Accounts of Scotland (ICAS) • Scotland Office • Department for Business, Energy & Industrial Strategy (BEIS)

REVISED MANDATORY LICENCE CONDITIONS

Schedule 3 of the Licensing Order sets out the mandatory conditions with which a short-term let host must comply. The host will make a self-declaration in respect of some of these conditions on the application form. Others may require verification and this might be done by requesting photos or documentary evidence of compliance, or carrying out a physical inspection of the accommodation. We anticipate that local authorities may want to take the following approach but we will cover this in more detail in guidance:

Condition	Self-declaratory	Requires verification
(1.) Information for guests	X	
(2.) Gas safety		X
(3.) Fire safety of furnishings		X
(4.) Legionella risk assessment	X	
(5.) Private water supply		X
(6.) Planning permission in control areas	X	
(7.) The safety of the property (repairing standard):	X	
• Electrical safety		X
• Smoke detectors and heat alarms		X
• Carbon monoxide safety		X
(8.) Maximum occupancy		X
(9.) Adverts to include licence number and EPC rating	X	
(10.) Buildings and public liability insurance cover		X
(11.) Contact details for managers of the premises	X	
(12.) Payment of fees	X	
(13.) Obligation not to provide false or misleading information	X	

DESIGN PRINCIPLES

The regulatory framework should be:

1. **Proportionate:** minimising bureaucracy and barriers to innovation or tourism and encouraging high-tech entrepreneurship, to benefit the Scottish economy
2. **Promoting safe practice:** for hosts, guests and local residents - includes health, fire safety and prevention of nuisance or crime
3. **Robust:** with no loopholes in regulation and taxation
4. **Responsive:** councils are empowered to implement the regime that responds to local needs, of both residents and businesses (e.g. new festivals starting up)
5. **Built on existing powers and solutions as much as possible,** e.g. existing noise and nuisance powers
6. **Fair across the hospitality sector,** maintaining a level playing field both between new entrants and established operators and between short-term letting and other parts of the hospitality sector
7. **Flexible and future-proofed:** not assuming that today's approaches or platforms will be the approach taken in future
8. **Easy to understand by all:** visitors, hosts and platforms, this will aid enforcement as different participants will be able to identify compliance failures
9. **Cost effective:** the approach should seek to minimise administrative costs to all participants
10. **Straightforward and effective to enforce:** making good use of existing enforcement mechanisms and data that is easy to obtain.



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Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80004-442-5 (web only)

Published by The Scottish Government, December 2020

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS799226 (12/20)

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