

# **Short-term lets: licensing scheme and planning control area legislation**

**Business and Regulatory Impact Assessment (BRIA)**

**November 2021**

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# Licensing Scheme and Planning Control Area Legislation

## Business and Regulatory Impact Assessment (BRIA)

### A: Title of Proposal

1. This BRIA relates to the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 (“**the Licensing Order**”) and the Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 (“**the Control Area Regulations**”), as amended<sup>1</sup>.
2. This BRIA was originally published in December 2020, alongside the Licensing Order and Control Area Regulations. We shall refer to that as the **2020 BRIA**. The Control Area Regulations were approved by the Scottish Parliament and came into force on 1 April 2021. The Licensing Order was withdrawn in February 2021, in order to develop guidance and address concerns raised by members and stakeholders; we shall refer to the withdrawn Licensing Order as the **2020 Licensing Order**.
3. The Scottish Government published a revised draft Licensing Order in June 2021 for consultation, with the intention of laying the Order at the Scottish Parliament in November 2021. A revised draft BRIA was also published alongside the consultation. We shall refer to that as the **2021 draft BRIA**.
4. This updated final BRIA has been amended to take into account changes made to the Licensing Order following the third consultation in summer 2021, as well as feedback from stakeholders as part of the consultation process.

### B: Purpose and intended effect

#### B1.1 Background: trends in the short-term lets sector

5. Since short-term lets as a category have not previously been subject to regulation, there are no official statistics on the size of the sector. However, there are a variety of data sources which can provide indirect evidence of how the sector has evolved in recent years, particularly with the growing prevalence of on-line platforms.
6. One source of data is self-catering, bed and breakfast (B&B) and guest house accommodation registered on the Non-Domestic Rates (NDR) valuation roll. It is important to note that this only covers a subset of the short-term lets market. This is because self-catering accommodation which is entered on the NDR roll

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<sup>1</sup> By the Town and Country Planning (Short-term Let Control Areas) (Scotland) Amendment Regulations 2022.

is classified as premises which are not the sole or main residence of any person, and which are made available for let on a commercial basis for an aggregate of at least 140 days in the financial year; if premises are made available for a shorter period they should be entered on the council tax valuation roll<sup>2</sup>. With respect to B&B accommodation, if the premises are the sole or main residence of a person, and are made available for letting to no more than six persons a nights, then they should be entered on the council tax roll regardless of the period for which they are let<sup>3</sup>.

7. Over 1,400 small accommodation providers on the council tax roll had received COVID-19 grant support through the Small Accommodation Providers Paying Council Tax Fund by late-April 2021. It should be noted that this only applied where the accommodation was a primary source of income for the host or operator (see paragraph 186). It does not capture short-term let accommodation on the council tax roll which provided a limited supplement to the income of the host or operator.
8. Furthermore, the picture with regard to unconventional accommodation is complex, with varying categories on the NDR roll for units or premises comprising a collection of units<sup>4</sup>. For this reason, we do not consider unconventional accommodation in detail in this section.

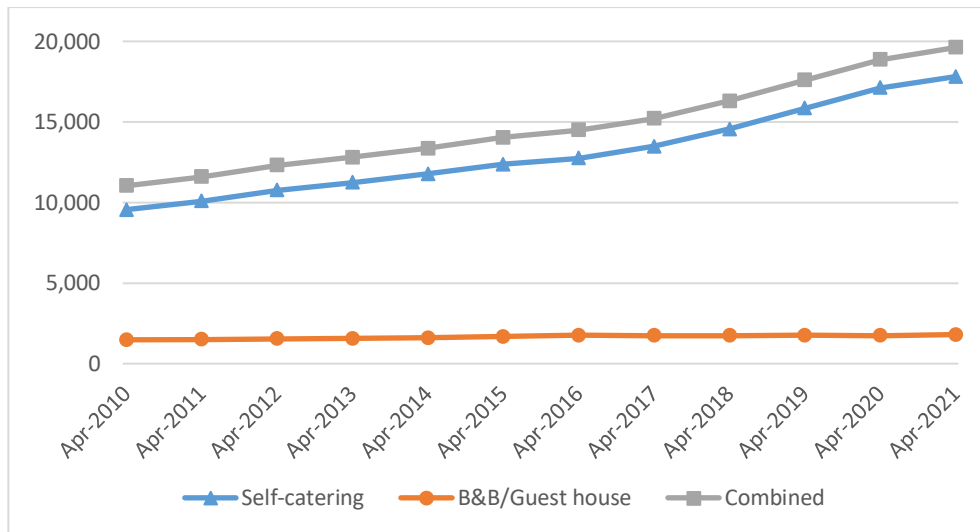
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<sup>2</sup> Section 2 of Schedule 2 of [The Council Tax \(Dwellings and Part Residential Subjects\) \(Scotland\) Regulations 1992](#).

<sup>3</sup> Section 1 of Schedule 1 of [The Council Tax \(Dwellings and Part Residential Subjects\) \(Scotland\) Regulations 1992](#).

<sup>4</sup> Some NDR descriptors relevant to unconventional accommodation include (with the latest numbers in brackets): time share units (1,129), caravan sites (697), holiday huts (382) and camping sites (102). Without more information, it is not possible to know how many units would be within scope of the definition of short-term let. (Data sourced from searching on respective core descriptions in the [Advanced Search of Scottish Assessors Association Portal](#)).

**Figure 1. Self-catering and B&B/Guest house premises on NDR valuation roll – April 2010 to April 2021**



Source: Scottish Government analysis of [NDR valuation roll data](#).

9. As **Figure 1** and **Table 2** show, there has been a significant growth in the number of self-catering premises which are registered on the NDR roll, rising from 9,555 in April 2010 to 17,810 in April 2021, an 86% increase over this eleven-year period. There has also been an increase, albeit smaller, in the number of B&B/Guest house premises registered on the NDR roll, rising from 1,480 in April 2010 to 1,805 in April 2021, a 22% increase. The combined total of self-catering and B&B/Guest house premises registered on the NDR roll rose from 11,035 in April 2010 to 19,615 in April 2021, a cumulative increase of 78%. Because the previous use of premises is not recorded on the NDR roll, it is not possible to disaggregate the extent to which this growth is due to change in use from domestic uses, other types of non-domestic use, or to the premises being new.
10. **Table 1** shows the top five areas for self-catering, B&B and Guest house accommodation on the NDR roll as at 1 April 2021, while **Table 2** shows how much these categories have grown since 1 April 2010. The growth in self-catering properties in Edinburgh particularly stands out, with the number almost tripling. However, there has also been significant growth in other local authorities which have high concentrations of short-term let premises, including predominantly rural local authorities.

**Table 1. Top five local authorities for self-catering, B&B/Guest house premises on NDR valuation at 1 April 2021**

Location	Self-catering	B&B/Guest house	Total	As share of Scotland
<b>Scotland</b>	<b>17,810</b>	<b>1,805</b>	<b>19,615</b>	<b>100%</b>
Highland	4,885	390	5,275	27%
Argyll & Bute	2,265	175	2,440	12%
Edinburgh	1,515	215	1,730	9%
Dumfries & Galloway	1,385	75	1,460	7%
Perth & Kinross	1,095	90	1,185	6%

Source: Scottish Government analysis of [NDR valuation roll data](#).

**Table 2. Cumulative growth in number of self-catering, B&B/Guest House premises on NDR roll from April 2010 to April 2021, for Scotland and for local authorities with highest number of premises in these categories in 2021**

	Self-catering accommodation	B&B/Guest house	Total
<b>Scotland</b>	<b>86%</b>	<b>22%</b>	<b>78%</b>
Highland	70%	39%	67%
Argyll & Bute	72%	9%	65%
Edinburgh	191%	-14%	125%
Dumfries & Galloway	54%	25%	52%
Perth & Kinross	83%	6%	73%

Source: Scottish Government analysis of [NDR valuation roll data](#).

11. Over the last decade or so, there has been rapid growth in the use of online platforms as a marketing route for short-term lets. For example, Airbnb, which was founded in 2008, had 21,900 active listings in Scotland by 2016-17<sup>5</sup>, increasing to 31,000 by 2018<sup>6</sup> and 35,000 by 1 January 2019<sup>7</sup>. (Note that Airbnb is the dominant platform offering short-term lets in Scotland, but is not the only one.)
12. Listings on online platforms will relate to premises on the NDR roll, as well as premises registered for council tax. **Table 3** shows, for Airbnb hosts, a breakdown by the number of nights for which a listing is booked as at 1 January 2019. Around three-quarters of Airbnb listings have been booked for a total period of 120 days or fewer during the year. This helps to explain why the

<sup>5</sup> Data, which relates to the period 1 July 2016 and 30 June 2017, is taken from [Airbnb's impact in Scotland](#).

<sup>6</sup> Page 30, [Airbnb UK Insights Report](#).

<sup>7</sup> Page 5 of [Airbnb's submission to Scottish Government 2019 consultation on short-term lets](#).

number of listings on Airbnb significantly exceeds self-catering, B&B and Guest house premises on the NDR roll, as it is likely that many of the properties listed on Airbnb will be on the council tax roll. Another factor may be the inclusion of some unconventional accommodation, or accommodation other than in houses, in the Airbnb listings.

**Table 3. Breakdown of listings by nights booked on Airbnb in Scotland as at 1 January 2019**

Number of nights	As % of all listings
1 – 30	40%
31 – 60	17%
61 – 90	11%
91 – 120	8%
121 – 180	11%
181+	12%

Source: Page 5 of [Airbnb submission to Scottish Government 2019 consultation on short-term lets](#).

13. **Table 4** provides a breakdown of the top four areas in Scotland (in some cases at a more disaggregated level than local authority) listed on Airbnb as at 1 January 2019. While there is overlap in terms of key tourist areas, listings on Airbnb are more weighted to urban areas than short-term let premises on the NDR roll (compare **Table 1**).

**Table 4. Top four areas for listings in Scotland on Airbnb as at 1 January 2019**

Location	Listings	As share of Scotland
Scotland	35,000	100%
Edinburgh	13,200	38%
Glasgow	3,800	11%
Inverness	1,300	4%
Isle of Skye	1,000	3%

Source: Page 5 of [Airbnb submission to Scottish Government 2019 consultation on short-term lets](#).

14. **Table 5** shows a breakdown by the types of accommodation for listings on Airbnb. It is important to note that a listing for an entire home encompasses secondary letting and home letting. In home letting, hosts let out their own home and this might only be for short periods during the year. It is also important to note that listings do not always equate to a single property. For example, somebody sharing two rooms in their primary home on Airbnb may list the rooms separately.



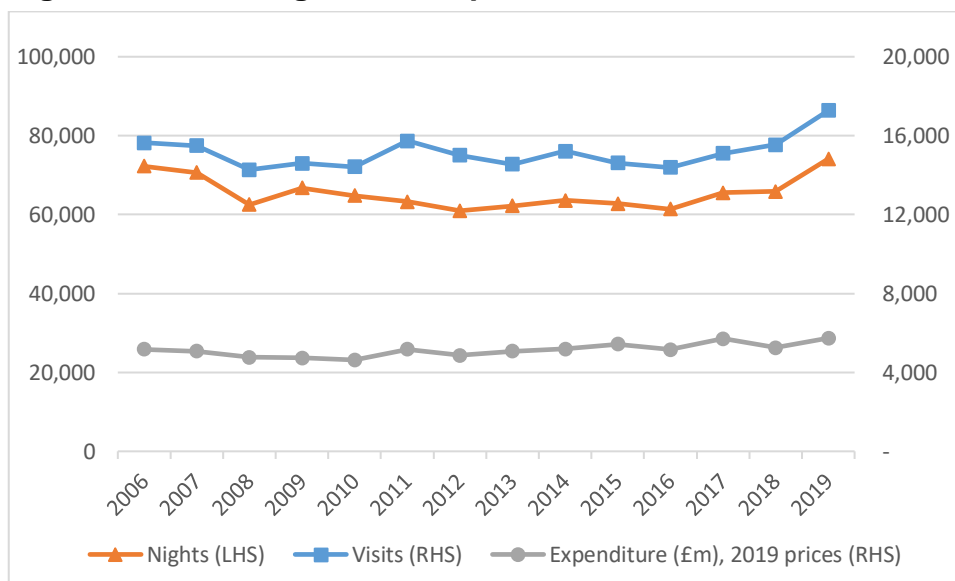
**Table 5. Breakdown of Airbnb listings by type of accommodation**

	Airbnb
Entire homes	63%
Private rooms	36%
Shared rooms	1%

Source: Page 5 of [Airbnb submission to Scottish Government 2019 consultation on short-term lets](#).

15. It is worth placing these trends relating to short-term lets in the wider Scottish tourism context. **Figure 2**, which is based on data from surveys of overnight travellers (the Great Britain Travel Survey for domestic travellers and the International Passenger Survey for international passengers), shows that the total number of visits and nights spent in Scotland was relatively steady following the economic recession in 2009. However, from 2016 to 2019<sup>8</sup> there appears to have been a notable increase in the number of visits and nights in Scotland, driven by an increase in international travellers.

**Figure 2. Visits, nights and expenditure in Scotland from 2006 to 2019**

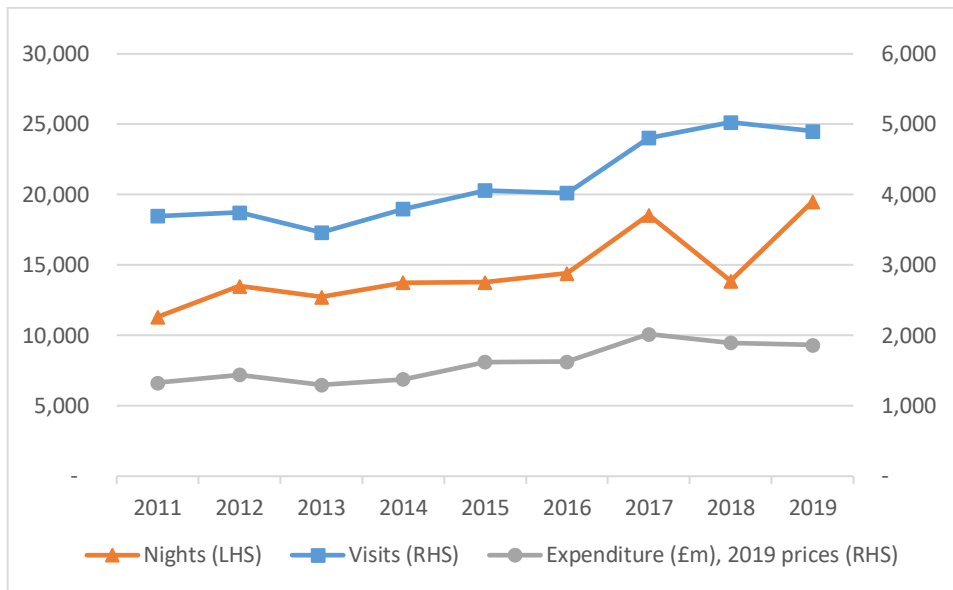


Source: [GB Travel Survey](#) and [International Passenger Survey](#). Expenditure adjusted to 2019 prices using the [GDP deflator](#).

16. **Figure 3** and **Table 6** illustrate that much of this growth has taken place in Edinburgh, with the annual growth rate in nights over the period 2011 to 2019 averaging 7.0% in Edinburgh compared to 2.2% for Scotland. As for Scotland, this growth was driven by international travellers.

<sup>8</sup> The surveys were suspended due to the impact of COVID-19, so more recent data is not available.

**Figure 3. Visits, nights and expenditure in Edinburgh from 2011 to 2019**



Source: [GB Travel Survey](#) and [International Passenger Survey](#). Expenditure adjusted to 2019 prices using the [GDP deflator](#).

**Table 6. Growth in visits, nights and expenditure in Scotland and Edinburgh from 2011 to 2019**

Category	Area	2011	2019	Cumulative growth	Average annual growth
Visits (000s)	Scotland	15,727	17,270	10%	1.2%
	Edinburgh	3,698	4,904	33%	3.6%
Nights (000s)	Scotland	63,287	74,111	17%	2.0%
	Edinburgh	11,320	19,510	72%	7.0%
Expenditure (£m, 2019 prices)	Scotland	5,180	5,739	11%	1.3%
	Edinburgh	1,325	1,865	41%	4.4%

Source: [GB Travel Survey](#) and [International Passenger Survey](#). Expenditure adjusted to 2019 prices using the [GDP deflator](#).

17. The growth in the trends in visits, nights and expenditure at Scotland level has therefore not been as dramatic as the growth in the number of self-catering, B&B and guest houses premises on the NDR roll, or the large increase in listings on platforms. However, it is important to bear the following in mind:
  - a) The data have different coverage, e.g. the NDR data will have a 100% coverage of properties which meet eligibility criteria, but that is only a subset of the short-term let and wider tourism market, whilst the traveller survey data cover the entire tourism market, and will be subject to the normal limitations relating to sampling error.

- b) Data on premises registered on the NDR roll is a stock variable, i.e. it relates to the number premises registered on a particular day, while visits, nights and expenditure are flow variables, i.e. they relate to the visits, nights and expenditure over the course of a year. Differences in the rates of occupancy for different types of accommodation can therefore help account for differences in trends. For example, the average occupancy rate for short-term lets over the course of a year may be lower than for other types of accommodation (particularly if the growth of online platforms has made it easier for properties to be let out for relatively short periods of time). To the extent that this is the case, any change in the number of short-term let properties will lead to a less than proportional change in the total amount of nights spent in the tourism sector as a whole.
- c) The growth in the number of properties on the NDR roll may be affected by incentives to move between the council tax and NDR rolls due to differences between council tax and NDR rates. This difference has been particularly affected by the introduction of the Small Business Bonus Scheme (SBBS) for NDR properties in 2007, with the level of relief being increased to 100% in 2010, as well as any other changes in NDR and council tax payable on particular categories of buildings. This has created an incentive for owners to apply for their property to be moved from the council tax to the NDR roll, alongside an application for SBBS relief. For example, if someone was operating a short-term let which was available for less than 140 days a year, they might legitimately have decided to extend the period for which it was available in order to benefit from the SBBS. The independent Barclay Review of NDR<sup>9</sup> published in 2017 also identified that second home owners could use this differential between NDR and council tax rates as an avoidance tactic. In line with a recommendation from the Barclay Review, from 1 April 2022, self-catering premises will have to provide evidence of actual letting for at least 70 days, as well as evidence of an intention to let for at least 140 days in the year, in order to qualify for the NDR roll.
- d) The growth in lettings on online platforms could, in part, reflect existing short-term let properties using a new marketing channel, instead of, or in addition to, offline channels such as magazines, rather than being new entrants to the short-term lets sector.
- e) Some of the growth in short-term lets could have been due to displacement of growth in providers of other types of accommodation.

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<sup>9</sup> [Non-domestic tax rates review: Barclay report.](#)

- f) The impact of short-term lets will vary geographically. The number of self-catering properties on the NDR roll in Edinburgh has nearly tripled since 2010 (**Table 2**) and nearly two-fifths of Airbnb listings are in Edinburgh (**Table 4**), which is consistent with the growth in the total number of tourist nights and visits in Edinburgh being significantly above the Scottish average (**Table 6**). However, this is not just an Edinburgh phenomenon, with strong growth in self-catering accommodation across Scotland, including in rural areas which already had high levels of self-catering accommodation (**Table 2**).
18. In summary, the quantitative data presented in this section is consistent with feedback from stakeholders to our various consultations, as well as the independent research undertaken for the Scottish Government (discussed in **section B3**), that:
- a) There has been significant growth in the number of properties which are being used for short-term lets. This means that it is important to have a regulatory framework in place which sets basic safety standards and allows local authorities to address noise and nuisance and other issues arising effectively.
  - b) There are regional concentrations of whole property short-term lets, which could have impacts on the functioning of neighbourhoods and housing markets. This means it is important that local authorities have the powers to manage numbers of short-term lets where these are causing problems; the Control Area Regulations provide them with the powers to do this through the planning system.

## **B1.2 Background: development of the short-term let regulations**

19. Short-term lets have become the subject of much controversy in some parts of Scotland and evoke strong opinions. The 2018-19 Programme for Government<sup>10</sup> 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.
20. 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 were required. The Group comprised officials from across relevant areas of government, including: better regulation, community empowerment, economy, housing, licensing, planning, tax and tourism.

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<sup>10</sup> Page 97 of [Delivering for today, investing for tomorrow: the Government's programme for Scotland 2018-2019](#).

21. 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. The paper noted the range of approaches adopted in cities and countries around the world and asked for opinions on the types of short-term lets which should be regulated and the controls which should be applied. In parallel with the 2019 consultation, what is now the Planning (Scotland) Act 2019 completed its passage through the Scottish Parliament and made provision for the establishment of short-term let control areas. The reports on the 2019 consultation and research<sup>11</sup> were published on 28 October 2019.
22. On 8 January 2020, Kevin Stewart MSP, the then Minister for Local Government, Housing and Planning, [announced plans to regulate the short-term let sector](#) in the Scottish Parliament:  
  
*“First, I intend to establish a licensing scheme for short-term lets using powers under the Civic Government (Scotland) Act 1982. Secondly, I am prioritising work to give local authorities the power to introduce short-term let control areas under powers in the Planning (Scotland) Act 2019. Finally, we will review the tax treatment of short-term lets to ensure that they make an appropriate contribution to the communities that they operate in.”*
23. Work to implement the regulations was paused in March 2020 because of the coronavirus (COVID-19) pandemic but resumed in July 2020. A second consultation on detailed proposals was undertaken from 14 September to 16 October 2020. We had originally planned for a longer period of engagement on our proposals in autumn 2020. However, the timetable had to be compressed because of disruption caused by COVID-19 whilst working to ensure that the secondary legislation could still be laid at the Scottish Parliament in session 5. The report on the 2020 consultation was published in December 2020.
24. The Control Area Regulations were approved by the Scottish Parliament in February 2021, and came into force on 1 April 2021. The 2020 Licensing Order was approved by the Local Government and Communities Committee, but subsequently withdrawn ahead of a vote in the Scottish Parliament due to concerns raised by members and stakeholders.
25. In order to address those concerns, and develop guidance on the licensing scheme and planning control areas, the Scottish Government established a

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<sup>11</sup> All Scottish Government consultation and research documents on short-term lets from 2019 and 2020 referred to in this document can be accessed from [www.gov.scot/publications/short-term-lets](http://www.gov.scot/publications/short-term-lets).

stakeholder working group in February 2021. Further information on the working group can be found in **section C4**.

26. On 25 June 2021, the Scottish Government published the Licensing Order and Business and Regulatory Impact Assessment in draft for a third, and final, consultation. The consultation ran until 13 August 2021.
27. On 7 October 2021, Shona Robison, Cabinet Secretary for Social Justice, Housing and Local Government wrote to the Convener of the Local Government, Housing and Planning Committee<sup>12</sup> setting out a number of significant and pragmatic changes that the Scottish Government had made to the Licensing Order following careful consideration of responses to our third consultation, and stakeholder views.
28. The Scottish Government remains committed to delivering a licensing scheme which introduces measures to protect the safety of guests and neighbours, and rolling these out without unnecessary delay. The date by which licensing authorities must have licensing schemes open to receive applications is 1 October 2022 and the deadline by which all short-term lets must be licensed is 31 June 2024<sup>13</sup>.
29. In this BRIA, references to consultation are to the third (2021) consultation, unless the context demands otherwise; we refer to previous consultations as the “**2019 consultation**” and the “**2020 consultation**” where necessary to avoid any risk of confusion.

## **B2. Objective**

30. The Scottish Government’s purpose in regulation of short-term lets is to ensure that local authorities can balance the needs and concerns of their communities with wider economic and tourism interests.
31. The Licensing Order establishes a licensing scheme 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.
32. The Licensing Order is complemented by the Control Area Regulations which make provision for local authorities to designate control areas. The purpose of control areas is to help manage high concentrations of secondary letting (where it affects the availability of residential housing or the character of a neighbourhood); to restrict or prevent short-term lets in places or types of

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<sup>12</sup> See the [letter from the Cabinet Secretary for Social Justice, Housing and Local Government to the Local Government, Housing and Planning Committee outlining changes to the licensing scheme](#).

<sup>13</sup> This change from 31 March 2024 is explained in the consultation report.

building where it is not appropriate; and to help local authorities ensure that homes are used to best effect in their areas.

33. Both these instruments will be complemented by possible changes to taxation to make sure short-term lets make an appropriate contribution to local communities and support local services. The review of the tax treatment of short-term lets is being progressed by the Scottish Government separately.

### **B3. Rationale for Government intervention**

34. The Programme for Government 2018-19<sup>14</sup>, published on 4 September 2018 (page 97), made a commitment to:

*“work with local government, communities and business interests to ensure that local authorities have the appropriate regulatory powers to allow them to take the decisions to balance the needs and concerns of their communities with wider economic and tourism interests. These powers will allow local authorities to ensure a safe, quality experience for visitors, whilst protecting the interests of local communities.”*

35. 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.
36. The rationale for government intervention<sup>15</sup> is based around:
  - a) **asymmetric information** affecting guest safety; and
  - b) **negative externalities**, such as:

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<sup>14</sup> See footnote 10.

<sup>15</sup> [The Green Book](#) explains that the rationale for intervention can be based on strategic objectives, improvements to existing policy, market failure or distributional objectives that the government wishes to meet.

- (i) increased housing costs;
- (ii) reduced amenity;
- (iii) quality of place;
- (iv) noise and nuisance; and
- (v) criminal use.

37. We consider these in turn.

38. **Asymmetric information** can occur when one party involved in a transaction has different information about the good or service than the other party.

39. The primary motivation for introducing this legislation is to **enhance guest and neighbour safety**. (Neighbour safety is affected, for example, through risk of fire.) In the private rented sector, a landlord must register with the local authority that their rented property is located in before they can let a property. As part of the registration process, the local authority will check whether the landlord is a fit and proper person. A prospective tenant is able to search the Scottish landlord register to check whether a landlord is a fit and proper person before living at the property. A similar process exists for Houses in Multiple Occupation (HMO), which require a licence. In both cases, the property must at least meet the repairing standard and the landlord must be a fit and proper person.

40. At present, short-term lets are unregulated<sup>16</sup>; the primary mechanisms available to the average guest to find out about accommodation is through peer review on platforms or through grading systems, such as VisitScotland's grading system for tourism accommodation<sup>17</sup>. Even assuming the reviews are authentic, peer review tends to be focused on quality of experience rather than safety. Whilst there is some overlap between quality and safety, most guests will not have the time, inclination or skills to examine or comment upon safety features. Tourism grading systems are voluntary and do not provide the same level of assurance as a mandatory licensing scheme.

41. The primary concern stemming from the lack of regulation is that people may unwittingly stay in accommodation that is unsafe. The mandatory safety conditions for the licensing scheme will apply across Scotland for all types of short-term let and set licensing requirements around water, electrical, gas and

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<sup>16</sup> This is sometimes misunderstood. Of course, there are safety laws that apply to short-term lets but there are gaps in provision and, in general, no mechanism to ensure compliance. For example, B&Bs are meant to register with their local authority for food safety reasons but attempting to use this registration to identify businesses for COVID-19 support showed that many had not registered.

<sup>17</sup> [Tourism Star Ratings - Quality Assurance | VisitScotland.org](https://www.visitScotland.org.uk/tourism-star-ratings-quality-assurance)



fire safety. Broadly speaking, this asymmetry of information is addressed through the **mandatory licence conditions**.

42. This asymmetry of information can also lead to market failure in the sense that prices determined by the market do not provide proper signals to consumers (guests) and producers (hosts). If it is difficult for guests to distinguish the safety and quality of short-term lets, this could mean that some hosts may offer lower prices because they do not incur costs required to meet safety standards, and thus undercut hosts who do ensure that their accommodation is safe. If there was much better information (through licensing), then unsafe accommodation should be removed from the market and hosts will be competing on a level playing field of compliance with mandatory safety conditions. It may even be possible that a licensing scheme could boost overall demand for short-term lets by providing consumers with increased confidence in the functioning of the short-term lets market.
43. A **negative externality** occurs when the action of one party adversely affects another party, but this is not accounted for in the market price of a good or service. This can result in an outcome where the efficient amount of a good or service supplied is exceeded and unnecessary social costs are imposed. One example is the impact of poor quality short-term lets on the safety of neighbours. The issue of safety was discussed above in relation to guests, but the fact that poor safety conditions can also impact on neighbours, who are not party to the short-term let, and whose interests may therefore not be taken into account, strengthens the force of this rationale for regulation. Other examples, discussed below, are more variable across Scotland and will be **addressed through the discretionary powers** given to local authorities through the Licensing Order and Control Area Regulations.
44. An example of a negative externality arising from short-term lets, the impact of which can vary substantially across Scotland, is the effect on local housing markets and communities. Research for the Scottish Government on the impact of short-term lets<sup>18</sup> on local communities identified that there were just under 32,000 active Airbnb listings in May 2019 across Scotland, with nearly 70% of these being secondary letting (whole properties)<sup>19</sup>. In Edinburgh City Centre and Skye, it was estimated that secondary lets actively listed on Airbnb accounted for just over one in ten of all dwellings in these areas<sup>20</sup>.
45. In areas like Edinburgh City Centre and Skye, where there is high demand for short-term accommodation, it may be more profitable for a landlord to let their property as a short-term let, rather than a long-term let, reducing the supply of

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<sup>18</sup> [Research into the impact of short-term lets on communities across Scotland](#).

<sup>19</sup> Note that the research used data on Airbnb listings provided by [Inside Airbnb](#). Data on Airbnb in other parts of this BRIA is taken from Airbnb publications or submissions.

<sup>20</sup> As noted in paragraph 14, not all whole property listings will be secondary listings.

private rented sector accommodation. It may also attract investors looking to buy property to let as a short-term let, competing with residents looking for permanent accommodation in the area. This reduction in the supply of housing available to residents can impose social costs that are not borne by short-term let hosts:

- a) increased costs of housing (renting or purchase) for local people;
- b) the supply of local amenities for residents may decrease if there are not enough residents to make these amenities financially viable;
- c) the quality of the neighbourhood and sense of community can be adversely affected if residents feel less safe because of the high concentration of short-term lets or if residents have fewer permanent neighbours;
- d) specific nuisance such as through noise, littering and other forms of antisocial behaviour; and
- e) use of short-term let accommodation for criminal enterprises (such drug dealing, sex trafficking etc.), with or without the collusion of the host.

46. The potential negative impacts of short-term lets on local communities are evidenced in the research the Scottish Government carried out in 2019. This research showed that there is a large degree of concern about the prevalence of short-term lets across Scotland, and in turn there are social costs caused by short-term lets that are borne by residents. The research included a survey of 197 residents in five areas of Scotland:

- Edinburgh (Central ward comprising the Old Town, New Town and Tollcross) – established world heritage site, city-centre tourism;
- The East Neuk of Fife (East Neuk and Landward ward coastal towns excluding St Andrews) – established coastal second home location;
- Fort William – rural expanding tourism;
- Glasgow (City Centre ward including Merchant City, Anderston and Yorkhill) – inner-city centre event tourism; and
- Eilean a' Chèò (Skye) – remote rural established tourism.

47. Resident respondents were asked whether they agreed or disagreed with the following statements about the effect of short-term lets; the share that agreed with these points is as follows (the remaining disagreed or were neutral):

- Reduction in homes for general residential use – 62%

- Reduced housing affordability for local people – 57%
  - Negative impact on parking – 53%
  - Increased littering / waste – 52%
  - More traffic problems – 47%
  - Inconsiderate use of common spaces – 42%
  - Noise and disturbance – 38%
  - Negative impact on overall character (of neighbourhood) – 35%
  - Increased cost of living in neighbourhood – 35%
  - Damage to homes or common areas – 27%
  - Higher insurance premiums – 26%
  - Threats or abuse – 21%.
48. Exploring these concerns in more detail, in Edinburgh, most resident, community and business participants in the research highlighted the reduced supply of housing caused by short-term lets in the city centre, and the impact they felt this was having on housing costs. This was usually expressed as cost of rents in the private rented sector, although some community participants also highlighted local house sales being out of reach for residents, with properties sold to short-term let investors. It was claimed by many community participants that this has resulted in a “spiralling decline” for the sustainability of the local community as there was no way of attracting residents due to increasing prices combined with “over-tourism” in the area.
49. In Fort William and Skye, the suggestion from many business and community participants was that there was a considerable problem in sourcing workers due to lack of available residential housing. This was related to workers for the tourism industry, property construction and maintenance, other local industry, public services including health and education, and the university in Fort William. Some participants in each area explained that the lack of residential housing was exacerbated by the fact that there are very few viable housing alternatives in these rural areas due to the travel distances involved.
50. Concerns were also raised by many participants in all case study locations over the lack of health and safety regulations in short-term lets when compared to the residential letting market or other tourist accommodation providers. This

was also linked to concerns about: building insurance, property repairs, and residents being unable to find hosts to resolve issues.

51. In Edinburgh, one of the most prevalent concerns and negative impacts of short-term lets raised by many resident and community participants was around the daily disruption caused by them. This included noise caused by the constant stream and volume of visitors and cleaners in common stairs; the noise of suitcases being wheeled about and bumping up and down two or three times every week; continual buzzing at the common entry doors at antisocial hours; visitors not understanding how to use the local refuse system; visitors not recycling; taxis arriving and departing often using their horns to indicate their arrival; and smoking in the common areas. The same participants discussed the fact that this could be ignored occasionally, but it was the incessant nature of the disruption which caused unhappiness. There was a sense of powerlessness to do anything about the problem due to the transient nature of tourists, the anonymity of hosts and no-one to go to “centrally in the council”. This often related to visitors not understanding the etiquette of living in tenements.
52. Many resident, community and a few business participants, raised concerns about the impact that short-term lets have on the character of areas, and sustainability of communities. The most common issues related to the availability of local services, shops for local people, and the impact on falling primary school rolls due to falling residential population. These issues were raised in all areas apart from Glasgow.
53. The reduction of local services and shops for local people was raised by many community participants across all areas, except Glasgow. These participants often made a direct link between the growth of short-term lets and tourism to the closure of local amenities such as the post office, bank and library. They also noted that many retailers in these areas now concentrate on the tourists for trade, with examples of local shops such as the local butcher, green grocer and newsagent closing over recent years. Some participants in rural areas were concerned about the continued 'liveability' of the community for local people, with useful local shops closing for tourist shops. They highlighted that people now have to travel long distances for shopping due to local shop closures.
54. Evidence from the independent research on the adverse effects of unregulated short-term lets has been supplemented by feedback during the consultation process. Since January 2020, the Scottish Government has received around 2,000 letters and e-mails to Ministers and officials expressing a range of views on the subject of short-term lets. In addition, we have received just under 3,200 consultation responses across our three public consultations. In our first public consultation (2019), 60% of the responses were from affected residents and

community groups but, as the proposals have become more specific about regulation in later consultations, more of the respondents are hosts and guests, as might be expected.

55. From stakeholder engagement with residents, we know that it is not just residents and communities in Edinburgh that are raising concerns. We have heard from residents in Glasgow, Ayr, Applecross (Highlands and Islands), Loch Lomond and Trossachs National Park, Isle of Harris, North Berwick, St Andrew's and West Linton, for example, about a range of issues, including safety<sup>21</sup>.
56. These social costs to residents are not borne by short-term let hosts. If they were, it might be expected to result in a reduction in the problems associated with short-term let accommodation.
57. The legislation seeks to remedy this by giving local authorities discretionary powers through: the Licensing Order to ensure that short-term lets are safe and to minimise nuisance for neighbours and communities; and through the Control Area Regulations to designate parts of their local authority as control areas in which concentrations of short-term lets and loss of amenity can be addressed. This approach recognises that these negative externalities may not be prevalent across all areas of Scotland, or in all areas of a local authority, by giving local authorities discretionary powers to flex to local circumstances.
58. The Licensing Order will give local authorities 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). This will allow local authorities to target specific measures on the specific licensees or areas with specific problems.
59. In a control area designated by a planning authority under powers in the Control Area Regulations, a host or operator seeking to use a dwellinghouse for secondary letting would need to apply for planning permission to be able to do so, which could be refused. This power to designate control areas (subject to the approval of the Scottish Ministers) enables local authorities to manage the prevalence of short-term lets in their area, and reduce social costs arising from short-term lets.

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<sup>21</sup> Notes of the four meetings with residents in 2021 can be found here: [Short-Term Lets Stakeholder Working Group](#).

## **C: Consultation**

### **C1. Within Government**

60. The Short-Term Lets Delivery Group was established in 2018 to assess the evidence base and the positive and negative impact of short-term lets, identify the councils' existing powers and explore whether further measures were required. The Group comprised officials from across relevant areas of the Scottish Government including: better regulation, community empowerment, economy, housing, licensing, planning, tax and tourism.
61. In terms of engagement across the wider public sector, we have engaged with local government through local authority heads of planning, environmental health, licensing and housing officers and COSLA.
62. We have also engaged with Police Scotland and the Scottish Fire and Rescue Service, both of whom have an important role to play in the licensing scheme. VisitScotland also provided input through the virtual workshops held as part of the 2020 consultation.
63. All these organisations are represented on our stakeholder working group.

### **C2. Public Consultation**

64. 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. The paper noted the range of approaches adopted in cities and countries around the world and asked for opinions on the types of short-term lets which should be regulated and the controls which should be applied. In parallel with the 2019 consultation, what is now the Planning (Scotland) Act 2019 completed its passage through the Scottish Parliament and made provision for the establishment of short-term let control areas.
65. In May 2019, the Scottish Government commissioned Indigo House, in collaboration with IBP Strategy and Research and Professor Rae from the University of Sheffield, to address gaps in the available evidence on the impact of short-term lets on housing and communities. The results of this research are reported above in **section B3**.
66. Broadly speaking, the same themes, benefits and concerns were highlighted by people at 2019 consultation events, those responding to the 2019 consultation and the independent research. The reports on the 2019 consultation and research were published on 28 October 2019.

67. A second (2020) consultation was carried out from 14 September to 16 October 2020 covering: the definition of short-term lets; the establishment of control areas under the powers created by the Planning (Scotland) Act 2019; and the establishment of a licensing scheme under the Civic Government (Scotland) Act 1982. The purpose of the 2020 consultation was to help the Scottish Government ensure that the legislation laid at the Scottish Parliament in December 2020 was as efficient and effective as possible. The report on this consultation was published in December 2020.
68. A third, and final, (2021) consultation was carried out from 25 June to 13 August 2021 seeking specific views on the draft Licensing Order and draft 2021 BR1A. The purpose of the 2021 consultation was to give stakeholders the opportunity to review the draft Licensing Order, which had been amended following discussions with, and feedback from, the stakeholder working group, to help the Scottish Government get this important legislation absolutely right.

### **C3. Business**

69. The Scottish Government has had constructive engagement with Airbnb, the Association of Scottish Self Caterers (ASSC), the Scottish Bed and Breakfast Association (SBBA) and the UK Short Term Accommodation Association (STAA), bodies with a strong interest in short-term lets in Scotland; all of whom are keen to promote best practice and high quality and standards. They have engaged with Scottish Government through public consultation and other meetings and as members of the stakeholder working group<sup>22</sup>.
70. The 2020 consultation report (at Annex B of that report) details the virtual workshops held over the 2020 consultation period and business was well-represented at these events. We heard from:
- **Accommodation providers** – ranging from Airbnb hosts, to self-catering businesses, serviced apartments and aparthotels;
  - **Accrediting organisations** – Electrical Safety First, Firescape, Quality in Tourism and Superhog (Guardhog) Technologies;
  - **Channel managers and hosting intermediaries** – Altido, Passthekeys, SpotHost, Houst, Booksterhq, GuestReady;

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<sup>22</sup> Airbnb, ASSC, STAA and the Scottish Bed and Breakfast Association (SBBA) all resigned from the working group during the 4<sup>th</sup> meeting on 4 August 2021. However, the Scottish Government has continued to engage with these stakeholders after this date.

- **Letting agents, platforms and aparthotels** – EdLets, Airbnb, booking.com, HomeAway (Expedia), Sykes Cottages, Sonder, Palm Holdings (Edinburgh) and StayCity;
- **Tourism and business** – ETAG, Scottish Tourism Alliance, Skye Connect, UK Hospitality, Visit Arran; and
- **Trade associations** – STAA and ASSC.

71. We also held a workshop with the [Regulatory Review Group](#)<sup>23</sup>.

#### **C4. Stakeholder Working Group**

72. In February 2021, the Scottish Government established a [stakeholder working group](#) to help develop draft guidance on the licensing scheme and planning control areas, with the aim that it is comprehensive, helpful and easy to understand. The stakeholder working group was also tasked with considering any changes that were required to the 2020 Licensing Order.
73. Representation on the group reflected the diverse nature of the short-term letting market, and included members from: local authorities, trade associations, short-term let platforms, VisitScotland, representatives of urban and rural residents, Police Scotland, Scottish Fire and Rescue Service, and the Scottish Government’s independent Regulatory Review Group. A full list of current, and previous, members can be found at: [Short-Term Lets Stakeholder Working Group - gov.scot \(www.gov.scot\)](#).

## **D: Options**

74. The 2019 consultation sought views on a wide range of possible approaches to the regulation of short-term lets. The 2020 consultation set out detailed proposals for a licensing scheme and control area regulations. In the 2020 consultation, we were not seeking views on a range of options but rather issues and solutions that would help refine the proposals set out in the 2020 consultation paper. The views expressed in the 2020 consultation, and further engagement with local authorities afterwards<sup>24</sup>, provided useful information for the 2020 BRIA, published in December 2020.
75. The 2021 draft BRIA was published alongside draft licensing legislation for consultation in June 2021. This BRIA has been amended to take into account

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<sup>23</sup> [www.gov.scot/groups/regulatory-review-group](http://www.gov.scot/groups/regulatory-review-group)

<sup>24</sup> The Scottish Government had follow-up conversations with officials from City of Edinburgh Council, Glasgow City Council, West Lothian, Argyll & Bute Council and Highland Council.



feedback and stakeholder views raised during the 2021 consultation, as well as changes to the Licensing Order which were made in the light of that feedback.

76. As with the 2020 BRIA, and 2021 draft BRIA, this BRIA focuses substantively on two options:
- a) do nothing; and
  - b) the licensing scheme as set out in the Licensing Order (and control areas as provided for in the Control Area Regulations<sup>25</sup>).
77. In the 2020 BRIA, we set out that we had not separately assessed proceeding with the 2020 Licensing Order only (i.e. not proceeding with the Control Area Regulations) as an option. This was because the Control Area Regulations provide entirely discretionary powers to local authorities. It will be for local authorities to consider whether and how to make use of these powers and assure themselves that the use of these powers has the intended impact.
78. The Control Area Regulations were approved by the Scottish Parliament in February 2021, and came into force on 1 April 2021. The Licensing Order will establish a licensing scheme for all short-term lets. Therefore, this BRIA focuses on the same two options as set out in the 2020 BRIA, and 2021 draft BRIA published on 25 June 2021 for consultation.
79. We did carefully consider industry suggestions for a registration scheme. We also considered proposals for an exemption from the requirement to obtain a licence for hosts and operators who were registered, which were put forward by industry to the stakeholder working group. Below we set out why we did not regard these as viable alternatives.

#### **D1. Registration scheme**

80. The sector has developed codes of conduct and guidance for hosts, with Airbnb, ASSC and STAA all publishing advice for hosts<sup>26</sup>. The sector is not against regulation and sees benefit in helping hosts achieve basic safety (and quality) standards in their accommodation. The discussion has centred on the structure of that regulation.
81. There was significant industry lobbying for a registration scheme as an alternative for the licensing scheme. The Scottish Government's view was that a registration scheme to deliver equivalent protections to the licensing scheme

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<sup>25</sup> The 2020 BRIA also assessed the introduction of Control Area Regulations alongside the licensing scheme. Although the Control Area Regulations came into force on 1 April 2021, they are included in this BRIA for context and completeness.

<sup>26</sup> See [www.airbnb.co.uk/help/article/1379/responsible-hosting-in-the-united-kingdom](https://www.airbnb.co.uk/help/article/1379/responsible-hosting-in-the-united-kingdom), [www.assc.co.uk/policy/code-of-conduct](https://www.assc.co.uk/policy/code-of-conduct) and [www.ukstaa.org/policy](https://www.ukstaa.org/policy).

would require a Bill (primary legislation) and would not have been possible to deliver in the previous session of Parliament. (More recently, industry stakeholders have suggested using powers in the Development of Tourism Act 1969, see **section D2**.) Development and Parliamentary consideration of a Bill, followed by secondary legislation and an implementation period, would push back regulation by several years. The Scottish Government's view was that such a timetable was too slow when the 1982 Act provided a suitable mechanism for regulation.

82. A key argument made by industry for registration, as opposed to licensing, was that, under a registration scheme, a host could register and continue operating whereas, under a licensing scheme, the host must wait to be granted a licence before operating. However, this concern is addressed by the Licensing Order making provision for existing hosts (i.e. those operating before 1 October 2022) to continue to operate whilst their application is processed. Such existing hosts have until 31 March 2023 to make an application for a licence.
83. The other principal argument advanced was that a registration scheme would be much less costly and bureaucratic. However, this entirely depends on the requirements of the registration scheme. A "light touch" registration scheme is likely to be less costly to administer than the licensing scheme but, by the very nature of being "light touch", would not deliver the same assurances and protections around safety and would not provide the tools to manage noise and nuisance. Local authorities are also well-practiced at administering licensing schemes under the 1982 Act and are likely to be able to adapt systems and practices in order to extend to the licensing scheme. It not obvious why a registration scheme providing the same protections as the licensing scheme would be cheaper to run than a licensing scheme.
84. In summary, the Scottish Government's view was that a registration scheme would not be ready in sufficient time and risked being either cheap and ineffective or a more expensive way of delivering the benefits of the licensing scheme.

## **D2. Exemption proposal**

85. Since the 2020 Licensing Order was withdrawn in February 2021, the ASSC put forward a proposal to the working group to introduce a registration scheme which would operate in parallel with the licensing scheme, but exempt registered hosts and operators from having to obtain a licence. Their proposed approach would require the same basic safety standards for registration as for licensing and they suggested that this could be delivered under powers in the Development of Tourism Act 1969 (i.e. not requiring primary legislation).

86. Unlike previous calls to introduce a registration scheme instead of licensing, this proposed approach would introduce a registration system that complemented licensing. The ASSC suggested that the scheme could be administered by a tourism body, such as VisitScotland.
87. If registration offers the same protections as licensing, then the proposal could not be less onerous than licensing, unless there was an assumption that the scheme administrator would be more efficient than licensing authorities. A registration scheme would need monitoring and enforcement. Licensing authorities are experienced in managing and enforcing various licensing schemes, and should be able to provide the required level of assurance efficiently.
88. If the same protections as licensing are not afforded, then the proposal does not deliver Ministers' policy intentions. It is unlikely that running a registration and a licensing scheme in parallel would be more efficient than running a single scheme.

## **E. Summary costs and benefits by sectors and groups affected**

89. The following table lists all the sectors and groups likely to be affected and how they will be affected by option (b). The sectors and groups were identified in advance of the 2020 consultation so that each group was engaged through representation at virtual workshops held over the 2020 consultation period. Paragraph 2.3 of the 2020 consultation paper set out the following actors in the system (which we have since rationalised for the purposes of the guidance):
- **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;
  - **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 Organisation (DMO)** 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 operator** means a person or company providing accommodation for short-term letting, including commercial landlords;
- **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;
- **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;
- **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; and
- **trade association** means a body representing the interests of some or all hosts, and possibly other actors as well.

90. The costs and benefits are presented relative to option (a) (business as usual). Costs and benefits may be augmented where local authorities exercise discretionary powers to impose additional licence conditions and designate control areas.

Sector or group	Option (b) – legislation: costs (-), benefits (+)
Accrediting organisation	+ More hosts are likely to seek accreditation from accrediting organisations and help from them with applying standards
Guest	+ Assurance around safety and standards + Greater confidence in sector may lead to higher demand for short-term lets, especially for less familiar types of accommodation – Higher cost of short-term accommodation and less choice if there is a reduction in the size of the sector
Host or operator	+ Confident all other hosts and operators working to the same basic standards, i.e. not being undercut

Sector or group	Option (b) – legislation: costs (-), benefits (+)
	<ul style="list-style-type: none"> <li>+ Confident about their own compliance and legal position, aided by new Scottish Government guidance</li> <li>– Time taken by application (and renewal) process and bearing some costs not passed on to guests</li> <li>– Costs of work on the accommodation to meet the mandatory licensing conditions, for those not already complying with best practice<sup>27</sup></li> <li>– Additional costs for a planning application for some hosts or operators in control areas</li> <li>– May deter some potential new entrants and lead some existing hosts to exit the sector, although could be mitigated by increased demand from guests due to improved confidence in the sector</li> </ul>
Hosting intermediaries and channel managers	<ul style="list-style-type: none"> <li>+ Safer workplace for people working in the accommodation (e.g. cleaners etc.)</li> <li>– May be some reduction in volume if hosts exit the sector because of costs or local authorities act to manage overprovision by introducing control areas. However, this may be mitigated by increased demand from guests due to improved confidence in sector</li> </ul>
Letting agencies and destination management organisations	<ul style="list-style-type: none"> <li>+ Increased guest confidence about basic safety standards means less reassurance required from letting agencies on this and a reduction in costs, e.g. from correspondence</li> <li>+ Agency and DMOs can be more confident about the accommodation in their listings</li> </ul>
Local authorities and other public sector	<ul style="list-style-type: none"> <li>+ Reduced workload for local authorities and other public sector bodies from antisocial or criminal behaviour, as bad hosts either leave the sector or improve their operations and it becomes harder to use short-term lets for criminal purposes</li> </ul>

<sup>27</sup> Where the host has to incur an additional cost in order to comply with a mandatory licensing condition which is required by existing legislation, then this cost is not an additional cost attributable to the short-term let licensing scheme.

Sector or group	Option (b) – legislation: costs (-), benefits (+)
	<ul style="list-style-type: none"> <li>+ Reduced workload for local authorities and other public sector bodies from properties that are unsafe (e.g. calls to the fire service)</li> <li>+ Greater understanding of prevalence of short-term lets in a local authority area could improve their housing market policies</li> <li>– Challenges for local authorities in recruiting and training staff to run the licensing system, depending on the local employment market</li> <li>– Challenges for some licensing authorities in the short-term due to handling high application volumes from existing hosts</li> </ul> <p><i>Note that the costs involved in establishing and running their licensing scheme and all the supporting functions should be covered by the fees from the scheme, so this is neither a cost nor a benefit.</i></p>
Neighbour (resident) and community groups	<ul style="list-style-type: none"> <li>+ Improved safety (e.g. reduced risk of fire)</li> <li>+ Reduced potential for noise and nuisance from frequent changes of occupation or antisocial activities</li> <li>+ Better quality of life in their own homes and the surrounding spaces</li> <li>+ Easier to find neighbouring hosts and operators and engage constructively</li> <li>+ Greater powers for local authorities to take action to address residents' legitimate concerns</li> <li>+ Improved housing affordability in some areas<sup>28</sup></li> <li>– Reduction in number of short-term lets could lead to an increase in second homes, with less spend in the community<sup>29</sup></li> </ul>

<sup>28</sup> It is challenging to quantify the link between higher number of homes used for secondary letting and increases in the cost of homes for long term rent or purchase. But where homes are being taken out of the residential market to be used for holiday letting this can only have a negative impact on affordability.

<sup>29</sup> But note that the Scottish Government has committed in its [Housing to 2040](#) strategy to give all local authorities powers to manage the numbers of second homes where they see this as a problem in their area.

Sector or group	Option (b) – legislation: costs (-), benefits (+)
	<ul style="list-style-type: none"> <li>- Potential loss of jobs in employment related to tourism, due to reduced numbers of short-term lets</li> </ul>
Other hospitality (e.g. hotels and premises licensed under the Licensing (Scotland) Act 2005 to provide accommodation)	<ul style="list-style-type: none"> <li>+ Fairer competition now that the short-term let sector is regulated too</li> <li>+ Increased business in some areas if availability of short-term let accommodation reduces</li> </ul>
Platform	<ul style="list-style-type: none"> <li>+ Licence number providing confidence that listings are legal and compliant with safety regulations</li> <li>- Some additional work in displaying licence number and EPC rating</li> <li>- May discourage market participation by hosts, in turn affecting amount of business for platforms, although this could be offset by stronger brand reputation for Scottish accommodation</li> </ul>
Trade association	<ul style="list-style-type: none"> <li>+ Assurance about basic standards and suitability of members</li> <li>- May be some reduction in volume, depending on balance between increased costs versus improved confidence in sector</li> </ul>
Wider economy	<ul style="list-style-type: none"> <li>+ Employment for trades in bringing accommodation up to the basic safety standards</li> <li>+ Sales opportunities for firms selling relevant kit, e.g. smoke alarms etc.</li> <li>- May discourage market participation by hosts due to costs, although this may be mitigated by increased confidence in sector or activity displaced into other forms of tourist accommodation</li> </ul>

## F. Costs to local authorities and recovery through fees

91. To inform this BRIA, the Scottish Government has sought to determine the costs of the licensing scheme to local authorities and, therefore, the possible fees that might be charged to short-term let hosts. **The actual fees to be charged will be determined by local authorities following Scottish Government guidance.**
  
92. The Licensing Order requires all short-term lets in Scotland to have a licence to operate. To obtain a licence, hosts will need to demonstrate compliance with a set of mandatory licence conditions that will apply Scotland-wide. These conditions primarily concern the safety of the accommodation, including the following direct safety measures:
  - (1.) Fire safety of the premises and furniture and fittings
  - (2.) Gas safety
  - (3.) Electrical safety
  - (4.) Water safety: Private water supplies
  - (5.) Water safety: Legionella
  - (6.) Safety and repair standards
  - (7.) Maximum occupancy.
  
93. There are also mandatory conditions which assist with compliance and enforcement and also help to protect guests and neighbours:
  - (1.) Agents: to make sure the day-to-day managers are named on the licence
  - (2.) Type of licence: only the type of short-term let specified on the licence may be offered
  - (3.) Information to be displayed for guests
  - (4.) Planning permission: ensuring compliance in control areas
  - (5.) Listings: ensuring that the licence number and EPC rating (where an EPC is required) are displayed on any advert or listing; and make sure that the advert or listing is consistent with the terms of the licence (e.g. around maximum occupancy).



- (6.) Insurance: ensuring adequate buildings and public liability insurance are in place
  - (7.) Fees: payment of any fees due to the licensing authority
  - (8.) A prohibition on providing false or misleading information.
94. Local authorities must also check that the host is a fit and proper person to hold a licence.
95. Local authorities will be responsible for establishing and running the licensing scheme. This will be a significant undertaking for licensing teams across Scotland and will impose new costs. Local authorities can recover the costs of establishing and running the scheme through fees. Licensing fees must not be set at a level greater than the amount necessary to recover establishment and running costs.
96. Establishment costs include setting up the scheme and preparing staff to run it. Running costs include such matters as processing applications and renewals, undertaking site visits, handling complaints and other monitoring and enforcement costs.
97. Local authorities have the power to charge a fee for an inspection, where the inspection results from the host's failure to comply with licence conditions or a complaint relating to the premises which is not frivolous or vexatious. (Fines are also payable for short-term lets that operate without a licence or breach licensing conditions, for example, but do not go to the local authority<sup>30</sup>.)
98. Some stakeholders expressed concern that a licensing scheme operating on a cost recovery basis meant that local authorities could establish costly and inefficient systems and pass costs on through high licence fees. They considered that cost recovery provided no incentives to keep costs down or drive efficiency. However, local authorities want to see tourism thrive in their local areas so have an incentive to minimize the barriers to responsible and sustainable tourism. Furthermore, licensing is no different in this regard to any other system where the fees cover the costs.
99. Local authorities will each determine their own fees and fee structures to recover establishment and running costs specific to their area. This means that the fees charged by local authority will vary. Relevant factors include whether they can achieve economies of scale, rurality and how they integrate their short-term lets licensing scheme with other housing and licensing functions.

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<sup>30</sup> The revenue from these fines would go to the Scottish Consolidated Fund.

100. Local authorities are expected to differentiate their fees dependent on the characteristics of the short-term let. Scottish Government guidance will state that local authorities should charge a variable fee based on: the maximum number of guests specified on the licence; and whether a property is licensed for (a) secondary letting or (b) home sharing and home letting.
101. To inform our estimate of the cost of introducing the scheme, Scottish Government officials spoke to officials from several local authorities to discuss the tasks and costs involved in establishing and running this scheme: City of Edinburgh Council, Glasgow City Council, West Lothian Council, Argyll & Bute Council, Fife Council and Highland Council. These local authorities were chosen to reflect a mix of urban, rural and island communities<sup>31</sup>, a variety of intensity of short-term let activity and in forecast operating costs; these conversations supplemented useful material provided through the virtual workshops and local authority responses to the 2020 and 2021 consultations.
102. There are eight stages in the consideration of a short-term let licence application:

**Step 1.** A short-term let host would either:

- submit their application and supporting evidence electronically, or
- post their application and supporting evidence to the relevant local authority licensing team.

In the latter case, this information would be processed by administrative staff and sent to a licensing officer.

**Step 2.** Administrative staff and licensing officers would review the application and supporting evidence provided by the applicant. If the application or supporting evidence was not complete or contained errors, officials would contact the applicant and request they resubmit or correct their application.

**Step 3.** A licensing officer would review the complete application and supporting evidence, checking that the applicant had correctly self-declared they met the mandatory licence conditions and relevant conditions that require verification. A licensing officer would also consult with relevant authorities to check the applicant(s) was a fit and proper person.

**Step 4.** Any objections would be assessed as to whether any additional information was required to inform the licensing decision and, as part of this, whether an inspection would be needed to gather that information.

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<sup>31</sup> Note that an Island Communities Impact Assessment was completed in December 2020 and will be updated in early 2022.

**Step 5.** Environmental health officers would consider whether the premises were safe to be operated as a short-term let, as well as the maximum number of occupants the premises could safely accommodate. This may, or may not, involve an inspection.

**Step 6.** In a control area (or where it was the local authority's policy to do so), planning officers would check whether the property needed planning permission and, if it did, whether it had planning permission.

**Step 7.** The local authority will decide whether or not to hold a hearing in respect of the application. Where the licensing authority decides to hold a hearing this will be at a meeting of the licensing committee. The licensing committee is likely to consider many licensing applications in one sitting.

**Step 8.** The applicant will be informed of the decision to grant or refuse their application; where the application is granted, they will be issued with a short-term let licence and relevant documentation, and where it is refused, they will be given the reasons for the decision. Relevant information would be added to the register of short-term lets held by the local authority.

103. Separately, local authorities will carry out monitoring and enforcement action. This will ensure that all short-term lets are licensed and comply with licensing conditions. As part of this, the licensing authority will consider any valid complaints made after the licence is granted. This will sometimes lead to a visit. There may also be some random visits for quality assurance purposes.
104. In addition to handling complaints, local authority staff will also respond to queries about the scheme and update the public register.
105. These ongoing costs also need to be recovered through fees and we have made allowances for these activities in the costing.
106. Most local authorities indicated that a licence was likely to be issued for three years and the host or operator would then be able to renew their licence for further three year periods. The costing is based on this assumption. (Note that some local authorities might choose to issue shorter licences on first application for some or all licences.)
107. There may be some modest reduction in the work required to consider a renewal application compared with a first licence application for the following reasons:
  - the applicant should be more familiar with the licensing process and more likely to submit a complete and correct application first time;

- some of the checks at first application may not need to be repeated (e.g. around planning control); and
- fewer applications should raise objections or require committee consideration, as problems arising in the first licence period should already have been addressed.

108. There a number of factors that could lead to a significant degree of variation in the cost to local authorities, principally:

- **Rurality** – rural local authorities would find it relatively more time consuming and costly to visit accommodation to check compliance with licence conditions than urban local authorities. The more premises that local authorities decide to visit as part of the application process, the more this increases the cost of processing licence applications. However, the Scottish Government wants local authorities to take a proportionate, risk-based approach to inspections which will help to manage costs.
- **IT systems** – a system which allowed on-line submission of applications and put them into the workflow would reduce staff time and costs significantly, not least through reducing applicant errors and manual data entry. Whether this was the intention of the licensing teams with whom Scottish Government officials spoke depended on a number of factors including: the capacity and flexibility of the current IT systems; whether new requirements could be brigaded with any scheduled upgrade; and the level of investment merited by the anticipated volume of applications. Any additional investment in IT systems could affect both the establishment cost (higher) and the running costs (lower) due to reduced staff requirements.
- **Accuracy of applications** – a significant number of licence applications and renewals for current licensing schemes need to be resubmitted due to errors (an on-line application portal can help reduce this with built in verification). This varies by licence type and across local authorities, making it difficult to quantify precisely how this would affect a short-term lets licensing system. Errors have a significant bearing on processing times and, consequently, the cost of licence applications and renewals. Two different assumptions relating to error rates are included in our costings.
- **Objections and complaints** – concerns were expressed by a number of licensing officials as to the number of objections and complaints, genuine or vexatious, that might be made about applications or operations, and in turn the workload implications for licensing committees. Objections and complaints have the potential to increase costs significantly. Volumes might vary by type of short-term let and concentration of activity and accommodation, so the intensity might vary across local authorities.

Removal of overprovision as a consideration in licensing<sup>32</sup> is likely to lead to significantly fewer competent objections and complaints on licensing grounds than would otherwise have been the case.

- **Turnover rate** – the rate at which short-term let accommodation exits the sector and is replaced by new short-term lets will have a significant bearing on the number of applications and renewals that local authorities receive and, in turn, staffing implications. It is difficult to estimate this accurately due to a lack of historic data on the turnover rate and the fact that the market had not reached an equilibrium point (prior to COVID-19). In any event, if the turnover rate increases, while more staff would be required to process licence applications, there would also be additional fee income to pay for these staff.
- **Composition of sector** – any changes in the composition of the sector over time, whether due to the introduction of fees or other economic trends, could affect the costs and revenues of local authorities. Local authorities may therefore need to adjust fees from time to time to ensure that they remain appropriate.
- **Compliance** – the level of compliance with licence conditions, and in turn implications for monitoring and enforcement staffing requirements, is hard to estimate before the licensing scheme is established. We have costed two different assumptions about the level of monitoring and enforcement required, depending on the level of compliance.

109. For these reasons, it is not possible to be precise about the cost of the licensing scheme, and how this will vary by local authority; therefore we have presented ranges for different scenarios.

110. While factors such as objections and complaints, and accuracy of applications are outwith the control of licensing authorities, one of the key factors that will impact the cost to applicants, and is within the control of licensing authorities, is the inspection regime they adopt. Where licensing authorities choose to carry out more desk-based checks, and fewer physical property inspections, we expect this will significantly reduce their costs in running licensing schemes in their areas and, as a result, reduce the licence fees for applicants.

111. We want licensing authorities to allow applicants to self-certify adherence with mandatory conditions on application, and only to use inspections as part of a risk-based, intelligence-led approach. Applicants would be breaching their licence conditions if it transpires later that they are not in compliance. We

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<sup>32</sup> See footnote 12.

propose to set out in guidance the relevant factors for licensing authorities to consider in deciding whether to carry out an inspection of particular premises.

112. To illustrate the impact of different approaches to inspections, we have presented figures across five rates of inspection of premises (10%, 25%, 50%, 75%, 100%). We do not believe that a proportionate licensing regime requires all premises to be physically inspected, but for completeness we have included 100% as a scenario to illustrate the impact of such an approach. For each of these inspection rates, we have presented a low cost and a high cost scenario to take into account various factors such as rurality, and levels of objections and complaints.
113. The costs set out in this BRIA reflect the Scottish Government's best estimate of **average costs and fees across Scotland for a low cost and high cost scenario at different inspection rates** but the actual average costs will depend on local conditions, and thus could be higher (or lower) than this in some local authorities. Furthermore, as local authorities should differentiate their fees depending on the characteristics of the short-term let, the actual fee charged to any particular host could be significantly different to any numbers set out in this BRIA. **Hosts and operators should not interpret the average fee presented in this BRIA as being the specific fee they will be charged.**

#### **F1. Low operating costs scenario**

114. Under this scenario, it is assumed that:

- a) **Accurate information** - Applications are submitted with the correct information and do not need to be resubmitted.
- b) **Low level of objections, queries and complaints** - a small proportion of applications (10%) attract objections or complaints, genuine or vexatious, or require a licensing committee to determine whether a licence should be granted.
- c) **Low monitoring and enforcement costs** - staffing resource for monitoring and enforcement is based on inspecting 5% of all licensed properties (after approval, and during their licence term) and one hour (combined) of officer and admin time throughout the licence term per licence.

115. There is more information about the assumptions underpinning scenario 1 at **Annex A**

#### **F2. High operating costs scenario**

116. Under this scenario, it is assumed that:

- a) **Inaccurate information** - A significant proportion (50%) of applications and renewals are submitted with errors, or require further information, and need to be resubmitted. This will take up more staff time as administrative staff and licensing officers will need to liaise with short-term let hosts to collect correct information.
- b) **Significant level of objections, queries and complaints** - a larger proportion of short-term let applications (20%) attract objections or complaints, genuine or vexatious, or require a licensing committee to determine whether a licence should be granted.
- c) **Higher monitoring and enforcement costs** - staffing resource for monitoring and enforcement is based on inspecting 10% of all licensed properties (after approval, and during their licence term) and two hours (combined) of officer and admin time throughout the licence term per licence.

117. There is more information about the assumptions underpinning scenario 2 at **Annex A**.

### **F3. Assumptions common to both scenarios**

118. As part of the initial application process, inspections of premises are included at five rates across both scenarios:

- a. 10%;
- b. 25%;
- c. 50%;
- d. 75%; and
- e. 100%

119. We have assumed the following in every case:

- a) applications and renewals are submitted by post and not submitted digitally;
- b) administrative staff will process incoming paper licence applications and renewals (the use of paper-based applications is deliberately chosen as a pessimistic assumption and might be expected to overestimate the costs slightly, see **Annex A** for more detail);
- c) the average gross annual salary of an administrative member of staff is £23,500 and this is inflated by 30% to account for other staff-related costs such as staff IT, facilities and national insurance contributions;

- d) the average gross annual salary of a licensing officer is assumed to be £35,000 and this is inflated by 30% to account for other staff-related costs such as staff IT, facilities and national insurance contributions. This salary is also used for other staff operating at officer level, including planning and environmental health officers;
- e) the average gross annual salary of a solicitor is assumed to be £42,500 and this is inflated by 30% to account for other staff-related costs such as staff IT, facilities and national insurance contributions;
- f) the average gross annual salary of a senior solicitor is assumed to be £50,000 and this is inflated by 30% to account for other staff-related costs such as staff IT, facilities and national insurance contributions; and
- g) licences will be granted for three years on application and renewal.

120. Note that the size of the sector, i.e. the number of short-term lets in Scotland or in any given local authority area, does not affect the model. This is because we have not modelled establishment costs (such as the introduction of an IT system) so we have not assumed any fixed costs to be spread over number of applications. We have not modelled costs of establishing an IT system because of the wide variation in estimates and approaches likely to be taken by different local authorities. However, as set out in **Annex A**, our costings take the conservative approach of allowing for manual processing of applications; one might expect the costs of installing an IT system to be offset by time savings against manual processes.

121. We have made no provision for temporary exemptions in the model; we would expect the costs and fees associated with considering temporary exemption applications to be much lower on average.

#### **F4. Licence fees**

122. **Table 7**, below, outlines the application and renewal fee that would need to be charged to cover the running costs, as set out under our hypothetical scenarios. It assumes that short-term let applications are made every three years. These are **average, indicative amounts**, expressed both as an upfront cost as well as on an equivalent annual basis (in brackets) when spread over the three year duration of the licence.



**Table 7. Indicative average licence fees across all local authority areas and all types of short-term lets for five inspection rates and a low cost and high cost scenario**

Inspection rate	Low cost scenario	High cost scenario
10%	£214 (£71)	£352 (£117)
25%	£223 (£74)	£366 (£122)
50%	£237 (£79)	£390 (£130)
75%	£252 (£84)	£413 (£138)
100%	£266 (£89)	£436 (£145)

*Note:* Figures in brackets show the fees on an annualised basis, i.e. spread over the three year duration of the licence.

123. Renewal fees could be expected to be lower than initial application fees due to a number of factors set out at paragraph 107 above. We expect renewal fees to be approximately £43 cheaper per application in the low cost scenario, and £77 cheaper per application in the high cost scenario.
124. Scottish Government guidance will state that local authorities should use a tiered fee structure<sup>33</sup> based on the type of licence (with lower fees for a home sharing and home letting licence than for a secondary letting licence) and guest capacity. This is to ensure that the fees for the licensing scheme are affordable for smaller premises. In terms of the likely revenue generated by a short-term let, relevant factors include: location, the size of the property or premises, and seasonality. Large party houses can generate significantly more income than a small two-bed self-catering property. Secondary letting will typically yield greater income than home sharing (or home letting for limited periods).
125. Some stakeholders expressed concern that, from a cash flow perspective, paying a fee upfront for three years could be challenging. Local authorities have the power to introduce an annual fee instead of an upfront application fee, should this be a problem. But we expect the licence fee to be broadly in proportion to the scale of the business and therefore a manageable cost.
126. According to Airbnb, in 2018 the average (median) earnings of a typical host in Scotland was £3,800<sup>34</sup>. The majority (57%) of Airbnb listings are let for less than 60 nights<sup>35</sup>, and so hosts earning close to the median earnings are likely to be letting for fewer than 60 nights. Earnings will be significantly higher for

<sup>33</sup> See [draft Guidance Part 2](#) for Scottish licensing authorities, letting agencies and platforms, which will be finalised in 2022.

<sup>34</sup> See page 30 of [Airbnb UK Insights Report 2018](#). The glossary on page 56 clarifies that the average used is the median, rather than some other measure of the average, such as the mean. Median earnings refers to the midpoint of the earnings distribution with half of hosts earning less than this amount and half more.

<sup>35</sup> See **Table 3**.

listings with year-round availability. Earnings will also likely be higher for secondary letting (i.e. of whole properties).

127. The vast majority of Airbnb hosts are responsible for a single listing<sup>36</sup>, and therefore will only need to apply for a single licence. Spreading the cost of the fee over its three-year life, the application fee will be equivalent to around 1.9% to 2.3% of average earnings under the inspection rates set out in Scenario 1 and around 3.1% to 3.8% under the rates set out in Scenario 2. It would constitute a smaller percentage to the extent that hosts are able to pass on the fee to guests.
128. Some stakeholders commented that we had not considered those earning less than the average in the 2021 draft BRIA. However, those hosts are likely to be taking fewer guests and therefore paying a lower licence fee, under the Scottish Government's recommended tiered fee structure.
129. By way of further comparison, according to a Frontline study carried out for the ASSC, which included a survey of self-catering operators, the average turnover in 2019 per operator was £47,318 (253 operators provided turnover data for 2019)<sup>37</sup>. The report does not break this figure down into total income per property. But it does suggest that the average number of properties per operator is 2.3 (329 operators replied to this question)<sup>38</sup>.
130. These two figures suggest an average (mean) income per property of £20,573, with the caveat that the number of operators responding to the two questions differed. Spreading the cost of a fee over its three-year life, the application fee would be equivalent to 0.3% to 0.4% of average income under the inspection rates set out for Scenario 1 and 0.6% to 0.7% under the inspection rates set out for Scenario 2.
131. The percentage of earnings that the fee will comprise for an individual host or operator may differ from this average depending on the particular fee charged by a local authority, as well as the rates charged to guests by the host. For example, a tiered fee system in line with forthcoming Scottish Government guidance would set lower fees for home letting and home sharing and for

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<sup>36</sup> 84% of Airbnb host accounts had a single listing in Scotland (as at 1 January 2019). See page 5 of [Airbnb submission to Scottish Government 2019 consultation on short-term lets](#).

<sup>37</sup> See figure for 2019 (based on responses from 253 operators) in Table 2.6 in [Economic Impact of Self-Catering Sector to the Scottish Economy](#). Figures for 2017 to 2019 show a steadily increasing trend in operator turnover (with increases of 6% in 2018 and 9% in 2019), before a sharp reduction in 2020 to £26,114, as a result of reduced occupancy due to the impact of COVID-19. However, as set out in **Section G3**, occupancy is recovering towards pre-pandemic levels, and we expect this process to be complete by the deadline for existing operators to submit a licence application by 1 April 2023. We have been conservative by assuming that operator turnover only recovers to 2019 levels rather than continuing its previous upward trend.

<sup>38</sup> See section 3.3 on page 6 of the [Economic Impact of Self-Catering Sector to the Scottish Economy](#). Responses were received from 329 operators on the number of properties owned/run.

smaller premises which can accommodate fewer guests. This will mean that the licence fee as a percentage of income may be lower on average than set out in paragraph 127 for Airbnb hosts, but higher on average than set out in paragraph 130 for self-catering operators, bringing these two estimates closer together. This is because Airbnb listings are likely to comprise a higher proportion of home letting and home sharing which accommodates fewer guests on average, while operators responding to the ASSC/Frontline survey are more likely to provide accommodation which can accommodate a higher average number of guests<sup>39</sup>.

132. Furthermore, local authorities have been given a power in the Licensing Order<sup>40</sup> to grant exemptions to short-term let hosts for a specified period of up to six weeks in any period of 12 months. This might be used to manage peak demand for accommodation in their area because of a large event, for example. We have not factored exemptions into the cost and revenue model: it would have both cost and revenue implications and local authorities would need to ensure that these balanced out if they remove significant numbers of short-term lets from their licensing scheme.
133. Note that conditions can be attached to an exemption, as needed, so there may be some compliance costs. But note that fees can be charged for an application for a temporary exemption too.

## **F5. Comparison with landlord registration and HMO fees**

134. Licensing for short-term lets has some similarities with landlord registration and HMO licensing. Some local authorities have indicated that they might expect the fees to lie somewhere between landlord registration and HMO licensing.
135. Landlord registration fees are set nationally at £67 plus £15 for each property<sup>41</sup>, making the lowest fee £82 for one property. This cost is incurred once every three years.
136. Local authorities are responsible for the fee structure and approach in respect of HMO licensing. The Scottish Government's statutory guidance for local authorities on licensing of HMOs includes guidance on the charging of fees to cover the costs of licensing in their area. Fees vary across local authorities because of the numbers, sizes and nature of their HMO properties and according to their strategic priorities set to address their specific housing challenges. For example, the lowest fee in Edinburgh only covers three occupants, whereas some local authorities charge a flat fee regardless of

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<sup>39</sup> See Figure 2.1 on page 6 of the ASSC/Frontline study.

<sup>40</sup> Paragraph 1A of schedule 1 to the 1982 Act, inserted by paragraph 4 of schedule 2 of the Licensing Order.

<sup>41</sup> From 1 April 2021, see [www.mygov.scot/renting-your-property-out/registration/](http://www.mygov.scot/renting-your-property-out/registration/).

number of occupants. The lowest fees for an HMO licence in each local authority area are set out at **Annex B**. The lowest fee charged for a new application for an HMO licence varies by local authority from £234 to £1,916 across Scotland. HMO licences are granted for up to three years, so the annual equivalent cost will depend on the licence duration.

137. City of Edinburgh Council has published information about its costs and revenues across all of its licensing functions<sup>42</sup>. The Local Government Association has published guidance on locally set licence fees including on what factors a local authority may wish to consider including in a licence fee<sup>43</sup>. From the factors that could lead to a significant degree of variation in the cost to local authorities, from their legitimately different policy aims and from experience of HMO licensing, it is to be expected that there will be significant variation in the fees for licences for short-term lets across Scotland.

## **F6. Costs of mandatory licensing conditions**

138. The mandatory licensing conditions, and associated costs for a typical two bedroom property, are set out at **Annex C**. Some of the conditions are required by existing legislation, and hosts should therefore be in compliance. The remaining conditions are in line with best practice, and responsible hosts should therefore already be incurring and managing these costs. Therefore, in general, these conditions should not result in additional costs, or at most very modest costs. Hosts will also need to complete a licensing application form; the Scottish Government's guidance for hosts will facilitate this.
139. Planning application and CLUD costs are set out at **Annex C1**.
140. Information from a snap survey by the ASSC is set out at **Annex C2**. That survey purports to show the high cost of compliance with basic safety and other requirements at present and therefore the challenge of adding a licence fee to the cost of business. The survey appears to be a significant overestimate of the cost of doing business (with the inclusion of one-off or infrequent costs as annual costs); arguably, it also demonstrates that, for these businesses, there are no additional compliance costs deriving from the mandatory conditions of the licensing scheme. However, we have taken relevant data from the survey to set indicative cost ranges in **Annex C**.

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<sup>42</sup> *Licence Income from Fees 2018/19*, City of Edinburgh Council (9 January 2020) available at: <https://democracy.edinburgh.gov.uk/documents/s12361/Item%207.1%20-%20Licence%20Income%20from%20Fees%202018-19.pdf>

<sup>43</sup> *Open for Business: LGA Guidance on locally set licence fees*, Local Government Association, available at: [www.local.gov.uk/sites/default/files/documents/5%2013%20%20OpenForBusiness\\_02\\_web.pdf](http://www.local.gov.uk/sites/default/files/documents/5%2013%20%20OpenForBusiness_02_web.pdf)

141. Some stakeholders were critical of using a two-bedroom property as the basis for calculating the compliance costs at **Annex C**. However, the Frontline report commissioned by ASSC showed that two bedrooms is the most prevalent form of accommodation even in the self-catering sector<sup>44</sup>.

## **F7. Costs of planning application**

142. Costs related to planning are set out at **Annex C1**. Planning consent for a change of use might be expected to cost the applicant in the region of **£520 to £1,000**. It should be noted that this one-off cost only applies if a local authority requires planning approval for use of the property as a short-term let. Where this condition arises from existing planning law, these costs are already part of the business as usual. Where the requirement arises because of the designation of control areas, then these costs only apply where there are concerns that short-term lets are imposing significant negative impacts on local communities.

## **G. Wider economic context**

### **G1. Contribution of tourism and short-term lets to the Scottish economy**

143. The tourism sector makes a significant contribution to the Scottish economy. In 2019, there were around 17.3 million overnight visitors to Scotland, spending £5.7 billion<sup>45</sup>, and around 134 million day visits, spending £5.8 billion<sup>46</sup>. Within this, there were almost 3.5 million international overnight visits, spending around £2.5 billion. The sector generated in the region of £4.1 billion in Gross Value Added in 2018<sup>47</sup>. Prior to COVID-19, the sector employed 229,000 people, or around 1 in 11 jobs across Scotland, and was a major employer in many rural areas.

144. Data set out in **section B1** indicated that, prior to the impact of COVID-19, there had been strong growth in the number of properties registered as self-catering premises on the NDR roll and in listings on online-platform sites. **Section B1** also presented data on overall trends in the tourism sector, which did not show growth to the same extent, and set out a number of reasons which could account for this difference.

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<sup>44</sup> See Table 2.1 of the [Economic Impact of Self-Catering Sector to the Scottish Economy](#), which shows that 37% of properties had 2 bedrooms, as opposed to 16% for 0-1, 27% for 3, 10% for 4, and 11% for 5+ bedrooms.

<sup>45</sup> See also Table 5.

<sup>46</sup> VisitScotland (2020) [Key Facts on Tourism in Scotland 2019 \(visitscotland.org\)](#), based on ONS Travel Trends 2019.

<sup>47</sup> Scottish Government (2021) 'Sustainable Tourism Growth Sector', [Growth sector statistics](#).

145. Short-term lets make an important contribution to the tourist economy because they can:

- a) offer visitors a unique tourist experience through a host's local knowledge, increasing the attractiveness of Scotland as a place to visit,
- b) offer accommodation in places not served by hotels and hostels, for example, and therefore help with dispersal of visitors from "hotspot" areas,
- c) offer more affordable accommodation, helping to attract tourists that may have a lower budget, and
- d) provide additional capacity to accommodate tourist or other visitor demand in areas with a high demand over a short period of time (for example, to accommodate tourists during the Edinburgh Festival or the Open golf tournament).

146. Sector bodies have undertaken economic impact studies, which are a useful contribution to the evidence base, and which we have discussed with them and their researchers. A study commissioned by Airbnb from BiGGAR Economics in October 2020<sup>48</sup> estimated that in the region of £0.7 billion gross value added (GVA) and 33,500 full-time equivalent jobs per annum in the tourism sector and wider Scottish economy are supported through spending by Airbnb hosts and guests. Meanwhile, research commissioned by the ASSC from Frontline estimates that spend linked to the self-catering sector supports in the region of £0.7 billion GVA and 24,000 full-time equivalent jobs per annum across the tourism and related sectors in Scotland<sup>49</sup>.

147. The ambit of the studies is not exactly the same: the Airbnb study relates to economic activity booked through their platform, which is the dominant, but not exclusive, online platform in Scotland with nearly 2.5 million visitors to Scotland using accommodation booked through their platform in 2019<sup>50</sup>, while the ASSC study is based on self-catering premises registered on the NDR roll. The hosts and operators covered by the respective studies overlap, since self-catering premises tend to advertise on online platforms. However, the ASSC study excludes home sharing (and therefore B&B) accommodation which is offered on Airbnb.

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<sup>48</sup> [Scottish and Local Tourism Economic Impact Assessment \(Airbnb, BiGGAR Economics\), October 2020.](#)

<sup>49</sup> [Economic Impact of Self-Catering Sector to the Scottish Economy.](#)

<sup>50</sup> [Airbnb responds to the Scottish Government's licensing and planning proposals - September 2020](#)

148. While there will be differences in terms of which hosts are covered, as well as other differences (e.g. estimated spend by guests<sup>51</sup> and the exact multipliers used), the broad methodology followed by the two studies is similar: survey data on spend by guests is grossed up according to the estimated number of hosts, and then standard GVA and employment multipliers derived from input-output tables are used to estimate the associated economic activity and jobs which are supported by this spend. The studies will therefore have both the strengths and limitations inherent in input-output studies of this kind. The key strength is that the studies will give a good idea of how much activity across the Scottish economy is linked to the spend by short-term let guests. The key limitation is that input-output analysis does not itself answer questions about what the economic and jobs impact would be in response to any change in regulatory or economic conditions. In particular, an input-output study on its own does not answer questions such as:

- a) How much would the supply of short-term lets fall in response to the introduction of regulation? The estimated impact of regulations presented by Airbnb and the ASSC in their consultation replies are based instead on separate surveys of hosts, asking what they will do in response to the introduction of regulations (see discussion of this survey evidence in **section G3**).
- b) If short-term lets hosts were to leave the sector in response to regulation, to what extent would this lead to displacement of the activity to other types of accommodation, and to what extent would this represent a net loss in economic activity? For example, Airbnb has argued that if around half of Airbnb hosts leave the sector due to the introduction of regulation, this will automatically lead to half of the associated economic activity and jobs supported being lost<sup>52</sup>, i.e. there is no assessment of whether this could be mitigated by displacement to other accommodation providers<sup>53</sup>.

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<sup>51</sup> The spend by guests (excluding accommodation) is estimated at £100 per person per night on average across Scotland in the BiGGAR study for Airbnb. In the Frontline report for the ASSC, estimated spend by guests in 2020 (excluding accommodation) is £53 per person (or £65 per adult) per night, while including accommodation it is £103 per person (£126 per adult) per night. These figures are higher than the overall figure for Scotland across all types of accommodation: on average domestic and overseas travellers to Scotland spent £77 per night (including accommodation) in 2019 (this estimate combines data from the International Passenger Survey and the GB Travel Survey).

<sup>52</sup> See, for example, page 3 of [Airbnb's submission to the Local Government and Communities Committee](#).

<sup>53</sup> Assessing displacement is not methodologically straightforward, but the evidence presented in **section B1.1**, which shows that the growth in total visits and nights has been lower than the growth in the number of self-catering premises, suggests that displacement effects may not be negligible.

## G2. Impact of COVID-19

149. The trends discussed in **section B1** have been interrupted from March 2020 by restrictions imposed following the COVID-19 pandemic and behaviour change curtailing even permitted activities. In 2021, the adverse health impact of COVID-19 has been dramatically reduced by the mass rollout of vaccinations, testing and treatment, and general compliance with public health interventions. However, the economic and behavioural impacts are likely to persist for longer and some changes will not be reversed. So there are now new trends to consider:

- a) an increased concern about safety by guests and neighbours, especially around the transmission of COVID-19;
- b) additional cleaning costs in between guests as a result of more stringent cleaning protocols due to COVID-19;
- c) a likely permanent shift to travelling less for work purposes, now that remote working and videoconferencing have become familiar and, to varying degrees, more popular, and necessary as part of the response to the global climate emergency;
- d) lower economic growth relative what was expected prior to COVID-19, which may reduce spend available for leisure travel relative to what it would have been;
- e) the potential for some scarring in the tourism sector with some short-term let and other accommodation not returning to the market as part of wider recovery; and
- f) behavioural change, and changes in preferences, from guests as experience of COVID-19 affects their risk appetite and priorities, but this may attenuate over time; in some respects a change in preferences may benefit the short-term let sector, as discussed in paragraph 156 below.

150. The tourism economy has been badly affected by COVID-19. In particular, apart from a narrow range of exempted activities, holiday accommodation was closed for a total of 222 days out of 398 days over the period from the start of the first to the end of the second national lockdown. The lockdowns were in place from:

- 24 March 2020 – 3 July 2020<sup>54</sup> and

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<sup>54</sup> Holiday accommodation with no shared services or access was able to open from 3 July 2020. Holiday accommodation with shared services reopened from 15 July 2020.



- 26 December 2020<sup>55</sup> – 26 April 2021.

151. While it is currently challenging to estimate the full impact on visitor numbers and spend within Scotland by market, owing to the pause in data collection for both the International Passenger Survey and the Great Britain Tourism Survey in 2020 due to restrictions on data collection arising from COVID-19, other data sources can shed light on recent trends.

152. The Scottish Government's analysis of ONS's Business Insight and Conditions Survey (BICS) statistics, which can be disaggregated to the Accommodation & Food Services sector show that, while COVID-19 exerted significant financial pressure on this sector in Scotland, it is now showing signs of strong recovery, although significant challenges remain<sup>56</sup>:

- As illustrated in **Figure 4**, the overall share of businesses categorised as 'currently trading' in the Accommodation & Food Services sector, which had fallen to a low of 32% in mid-March 2021, has recovered to 100% in the most recent wave of the survey (6 September to 19 September 2021), as compared with 99.4% for the economy overall.
- 14.9% of businesses which have not permanently stopped trading in the Accommodation & Food Services sector reported being at severe or moderate risk of insolvency in the period 6 to 19 September 2021, compared with 9.8% for the economy overall.
- Less than one fifth (18.1%) of businesses in the Accommodation & Food Services sector that had not permanently stopped trading reported having no or less than 3 months' cash reserves in the period 6 to 19 September 2021, compared with 21.9% for the economy overall.
- In the period 23 August to 19 September 2021, 45.7% of businesses in the Accommodation & Food Services sector reported experiencing a decrease in turnover compared with what is normally expected for this time of year. The comparable proportion for the economy overall is 29.7%.

153. Note that the Accommodation and Food Services sector has a much larger share of employment in remote rural areas (15%) compared to accessible rural areas (9%) and the rest of Scotland (8%)<sup>57</sup>, so these effects are amplified in more rural areas.

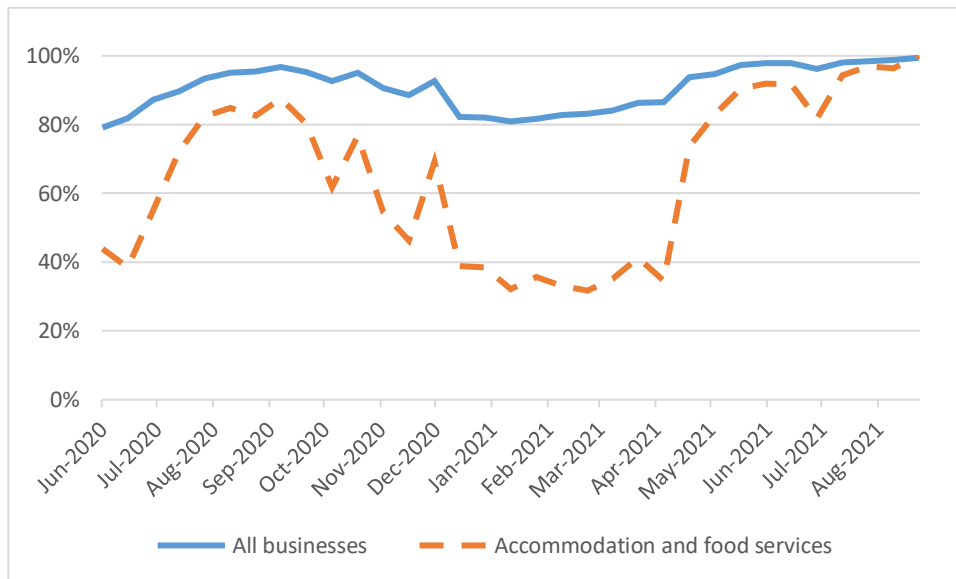
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<sup>55</sup> The second lockdown started officially on 5 January 2021, but from 26 December all of mainland Scotland was moved to Level 4 restrictions, which included the closure of non-essential retail and hospitality, while islands were placed in Level 3.

<sup>56</sup> [BICS weighted Scotland estimates: data to wave 39](#).

<sup>57</sup> Figure 12 of [Rural Scotland Key Facts 2021](#).

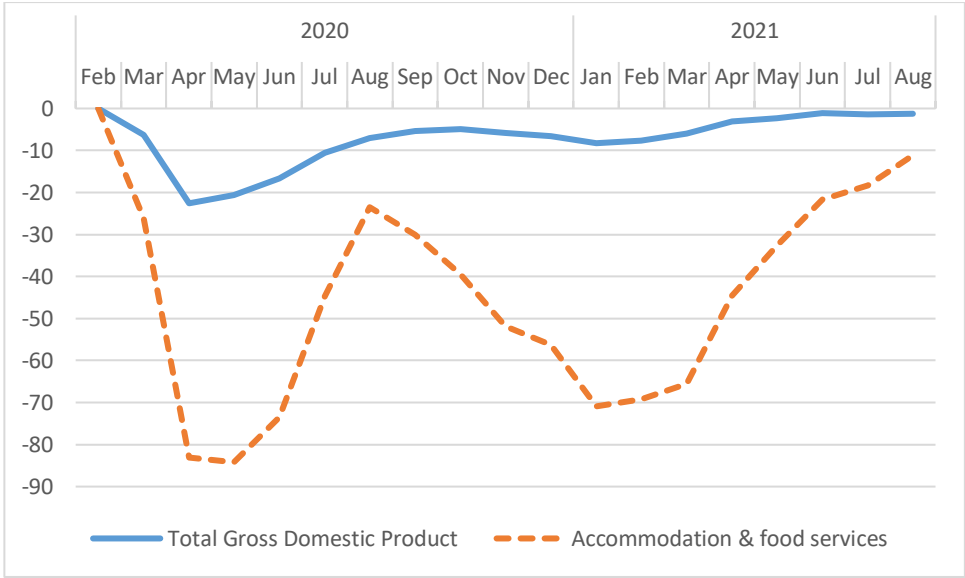
**Figure 4. Estimated share of businesses currently trading**



Source: [BICS weighted Scotland estimates: data to wave 39](#)

154. Monthly GDP statistics published by the Scottish Government help to summarise some of the above trends, because output is affected not only by the share of businesses which are trading, but also the level of output of those businesses. This data again shows that the impact of COVID-19 on the Accommodation and Food Services sector was significantly greater than for the economy as a whole, especially during the periods of national lockdown, but since then the recovery in this sector has been catching up with the overall economic recovery. As illustrated in **Figure 5**, relative to its pre-pandemic level in February 2020, output in the Accommodation and Food Services sector reached a low of -84% in May 2020, but by August 2021 it had recovered to 11% below its pre-pandemic level. By way of comparison, total economic activity reached a low of 23% below its February 2020 level in April 2020, and by August 2021 it was 1% below its pre-pandemic level.

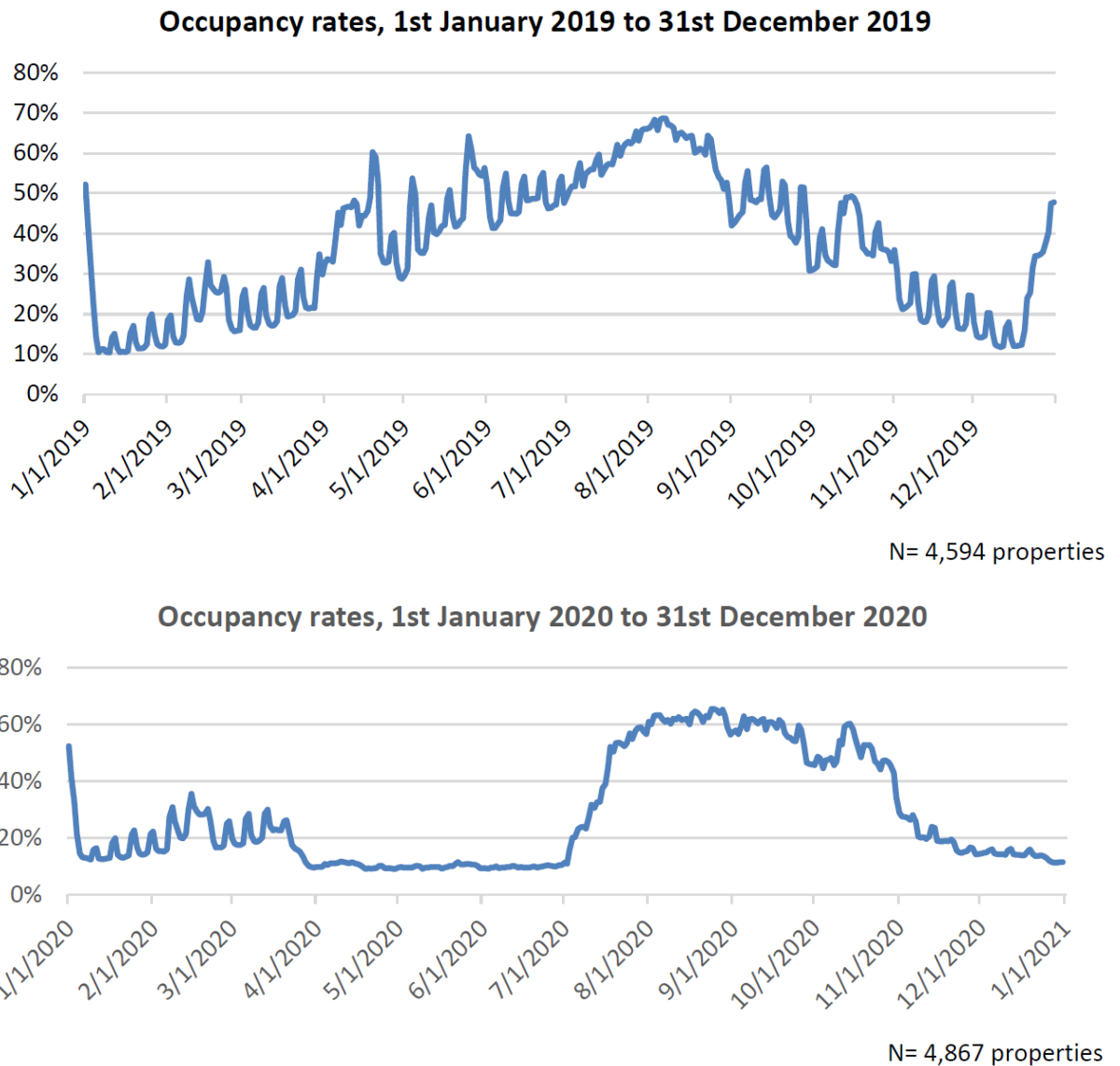
**Figure 5: Monthly GDP, Cumulative percentage change relative to February 2020**



Source: Scottish Government, [GDP Monthly Estimate: August 2021](#), seasonally adjusted chained volume measures, gross value added by industry of output.

155. Occupancy data from SuperControl (a provider of online booking technology specialising in self-catering) illustrates that similar trends have been evident in the self-catering subsector. **Figure 6**, which covers the years 2019 and 2020, shows the impact of the national lockdown in Q2 2020. However, it also shows that, in the second half of 2020, there was a strong recovery in occupancy levels, such that there was in general a higher level of occupancy in the second half of 2020 than there was in the corresponding period in 2019, although the second national lockdown meant that the seasonal spike in demand around Christmas did not happen in 2020.

**Figure 6. Occupancy rates in self-catering properties in Scotland from SuperControl data, 2019 and 2020**



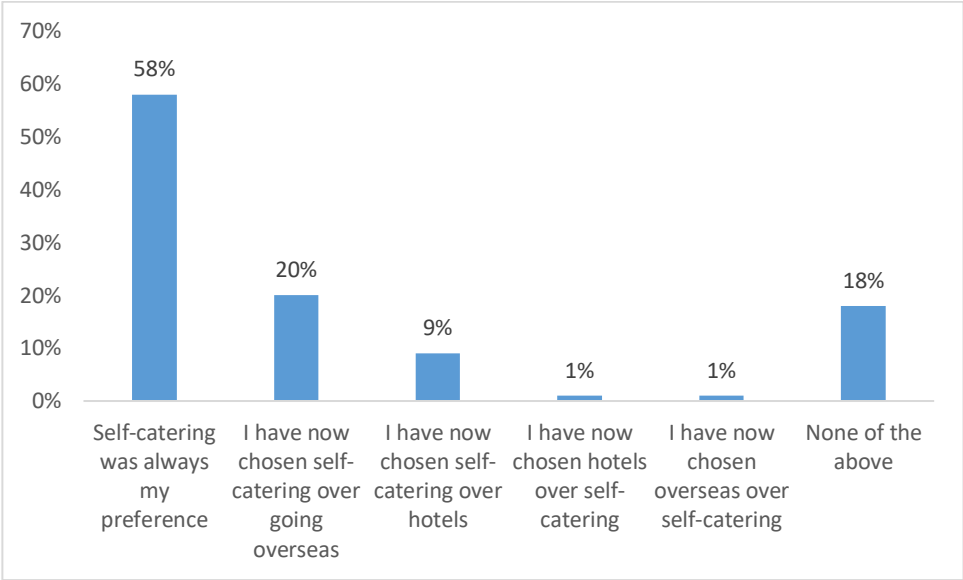
Source: Frontline report for ASSC, [Economic Impact of Self-Catering Sector to the Scottish Economy](#), Appendix 1 on P24.

156. **Figure 7**, taken from the Frontline research for the ASSC, suggests that the impact of COVID-19 may have increased the demand for self-catering accommodation relative to other forms of accommodation, with 20% of survey respondents saying that they have now chosen self-catering over going overseas, and 9% saying they have chosen self-catering over staying in a hotel<sup>58</sup>. This is likely linked to the perceived relative safer conditions in self-catering as a result of reduced exposure to staff and other guests, as well as

<sup>58</sup> It should be noted that this was a survey of guests staying in self-catering accommodation, rather than the general population, so there is likely to be a degree of selection bias.

the greater difficulty of travelling overseas. These impacts may persist for a while, although it remains to be seen if they will be permanent.

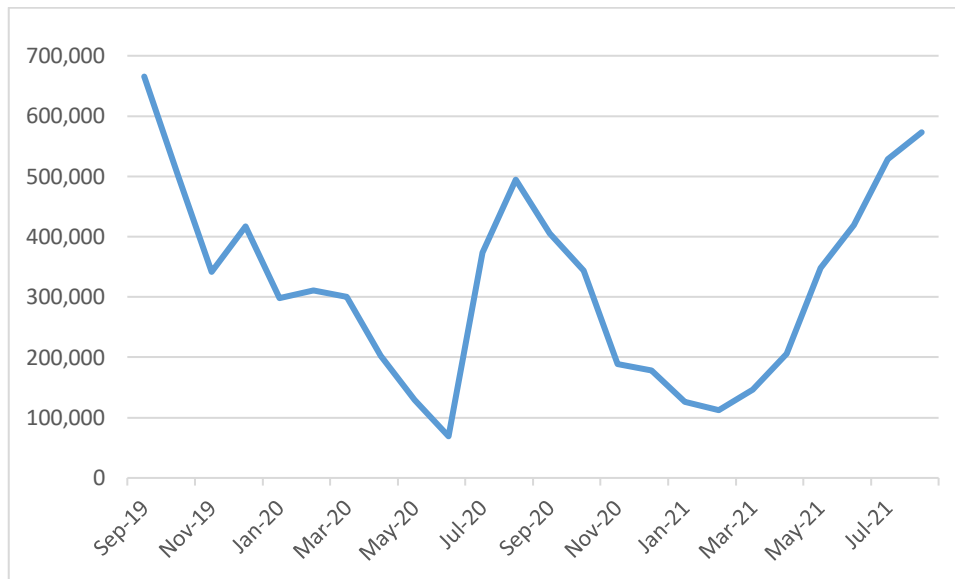
**Figure 7. Impact of COVID-19 on preferences of guests staying in self-catering property in Scotland**



Source: Frontline report for ASSC, [Economic Impact of Self-Catering Sector to the Scottish Economy](#), Figure 3.7 on page 19. There were 717 responses to this survey question.

157. The pattern in the SuperOccupancy data is consistent with data from AirDNA (see **Figure 8**), which also shows that demand for short-term lets recovered strongly in the second half of 2020 following the first national lockdown. The AirDNA data also shows that demand for short-term lets has recovered strongly from the second national lockdown, and in the second half of 2021 it has recovered towards pre-pandemic seasonal levels.

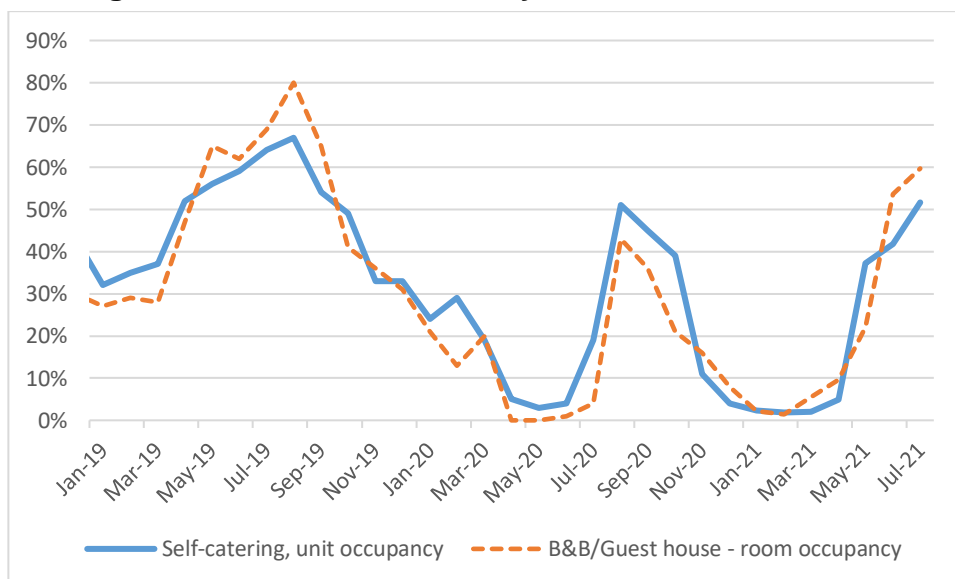
**Figure 8. Monthly nights booked recorded by AirDNA**



Source: AirDNA data provided to the Scottish Government. AirDNA tracks listings across a number of online platforms, including Airbnb and Vrbo.

158. Different segments of the market may have been affected by COVID-19 in different ways. For example, **Figure 9**, which shows data from VisitScotland’s occupancy survey, suggests that the B&B/guest house sector may have experienced a somewhat greater decline in occupancy than self-catering accommodation, perhaps due to the perception that it is harder to physically distance from other guests/staff in this type of accommodation relative to other forms of short-term let accommodation. However, the latest data suggests that this sector too is recovering strongly back towards more normal occupancy levels.

**Figure 9. Room occupancy rates in B&B/guest house sector and in self-catering, from VisitScotland surveys**



Source: [Scottish Accommodation Occupancy Survey report – B&Bs and Guest Houses](#)

159. While the strong rebound in demand for short-term lets is encouraging in terms of the future prospects for the sector, this is not to understate the financial impact that COVID-19 has had. Firstly, hosts will have foregone significant amounts of revenue during the periods of lockdown, from which they will take some time to recover, even if future occupancy returns to pre-pandemic levels. Secondly, there will be increased costs for some time to come due to the impact of COVID-19, e.g. due to intensified cleaning regimes.
160. As the evidence suggests that the market appears to be recovering towards pre-COVID-19 levels of activity, we are using the 2019 data established in the Scottish Government's 2019 research as a baseline for this BRIA.

### **G3. Potential impact of this legislation on the tourist economy**

161. It is possible that the time and cost involved in applying for a short-term let licence could lead to a reduction in the amount of short-term let accommodation capacity. It could also increase the cost of short-term let accommodation, if these costs are passed on in whole or in part to tourists. There are some uncertainties caused by: the alignment of the fee structure determined by local authorities to the revenue earned by a host; the current condition of the accommodation and what needs to be done to bring it up to standard; changes in visitor preferences, as some may become more confident in using short-term let accommodation, which could act to increase the number of visitors looking to use short-term let accommodation; and the price elasticity of demand<sup>59</sup> for tourist accommodation. The more inelastic this is, the more short-term let hosts can pass on the costs incurred from the licensing scheme to guests and/or the smaller the reduction in demand for short-term let accommodation from guests.
162. Short-term let control areas could reduce short-term let capacity if significant numbers of planning applications were refused in a control area. It is not possible to quantify the total effect of this as it will depend on whether local authorities implement control areas, the size of these areas, the planning policies that apply and how many short-term lets within a control area already had planning permission.
163. In their response to the 2021 consultation, Airbnb argued that:

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<sup>59</sup> This relates to the change in the quantity demanded of a good in relation to a percentage change in its price. The more inelastic this is, the smaller the reduction in the quantity demanded of a good for a given change in price. The Scottish Government published a review of elasticities relevant to tourism in Scotland in March 2021, which is available at: [Elasticities relevant to tourism in Scotland: evidence review - gov.scot \(www.gov.scot\)](#)

*The BiGGAR Economics data found that a 50% reduction in Airbnb nights could put 17,000 jobs in Scotland at risk and take almost £1 million a day out of the Scottish economy<sup>60</sup>.*

164. As was noted in paragraph 148 above, the input-output study in the BiGGAR study would not in itself be able to predict a 50% reduction. Instead, it was based on the following separate survey undertaken by Airbnb:

*We asked hosts in Scotland how the introduction of a registration system, licensing and new taxes on short-term letting would affect how they host. Over half (51 percent) of surveyed hosts in Scotland said they would no longer advertise their space on Airbnb and would not put it on the long-term rental market either. Of that 51 percent:*

- *17 percent of hosts surveyed said they would leave their property empty*
- *34 percent said they would still live in, but not let their property<sup>61</sup>.*

165. The survey asked respondents for their response if a package comprising registration, licensing and new taxes were introduced, rather than just the licensing system itself, but it should also be noted that the survey was undertaken in 2019, before the exact regulatory regime was known, and thus the question did not include the introduction of planning control areas.

166. The ASSC has also undertaken surveys of their members, which they argue similarly indicates that around half of respondents would consider leaving the sector in response to the introduction of a licensing scheme. Key questions from their surveys relating to this issue are extracted in **Table 8**.

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<sup>60</sup> Consultation responses are published on the Scottish Government website, see [Short-term lets: regulation information - gov.scot \(www.gov.scot\)](https://www.gov.scot/topics/short-term-lets).

<sup>61</sup> Based on a survey administered by Airbnb in June 2019 from a random sample (over 400 hosts) across Scotland about their opinions on the recently proposed short term-let regulations. This sample included professional and non-professional hosts on Airbnb. See page 11 of [Airbnb's response to 2019 consultation](#).



**Table 8. ASSC survey questions relating to response by operators to introduction of licensing or registration scheme**

Question	Share of respondents	Number of respondents
<b>October 2020 survey</b>		
Q42. Would you leave the self-catering sector if this licensing scheme was introduced		
Yes	49%	531
No	51%	558
Q43. If the answer is yes, what would you do with the property?		
Sell it	27%	253
Leave it empty / use for family & friends	33%	306
Q40. Would you be supportive of a simple online registration scheme, with mandatory health and safety, (akin to Private Landlord Registration) as proposed by the ASSC? <sup>62</sup>		
Yes	89%	1,023
No	11%	128
<b>September 2021 survey</b>		
Q9. If the Scottish Government introduced licensing as drafted, would you consider removing your property from holiday letting?		
Yes	54%	364
No	13%	90
Not sure	32%	214
Q14. How would you feel about your business if 'registered accommodation' was EXEMPT from the proposed licensing legislation (as proposed by the ASSC)?		
Very Pessimistic	3%	19
Pessimistic	4%	24
Neutral	18%	117
Optimistic	51%	238
Very Optimistic	25%	170

Sources: ASSC (October 2020), [Sectoral Survey into the Impact of the Proposed Licensing Scheme for Short-Term Lets Across Scotland](#); ASSC (September 2021), [Measuring the Unintended Consequences of Short-Term Let Licensing to Self-Catering in Scotland](#)).

167. It is worth noting how different the results are relating to whether the scheme is presented as a licensing or a registration scheme, with 89% of respondents in the October 2020 survey saying that they are supportive of a registration scheme and 93% of respondents in the September 2021 survey saying they

<sup>62</sup> ASSC, [Licensing or Registration for Short-Term Lets in Scotland](#).

would be neutral or optimistic about their business if “registered accommodation” would be exempt as proposed by ASSC.

168. This indicates that the introduction of regulation and adherence to mandatory safety conditions are not in themselves a significant difficulty for the sector; rather the likelihood of hosts actually leaving the sector will depend upon how onerous the provisions, in particular the licence fee, are perceived to be.

169. In terms of how onerous hosts perceived the licensing scheme to be when answering the survey, note that the 2020 ASSC survey included the following two questions:

- *Q15. If the cost of a licence were £1000 per property, what would the total cost of fees be to your business?\**
- *Q16. If an 'oversight' or monitoring fee (akin to Council Tax) was £1000 per property what would the total oversight fee be for your business?\**

*\*this is an indicative cost, based on alcohol licensing fees which range from £800-£2000, since the consultation document does not propose any fee structure.*

170. The ASSC also quoted a suggested licence fee in the region of £1,500 to £2,000 per licence in their 2021 consultation response<sup>63</sup>.

171. With respect to what licence fee hosts would have had to pay when answering the questions on registration, Q40 (see **Table 8**) referred to Private Landlord Registration and also linked to an ASSC paper on licensing versus registration<sup>64</sup>, which also referred in positive terms to the Isle of Man registration scheme. Under the Scottish Government’s landlord registration, the current fees are:

- Basic application fee – £67
- Plus additional charge for each property rented out by the landlord – £15
- Late application fee – £133

172. This means that the minimum fee for a landlord with a single property is £82 for registration which lasts three years. With respect to the Isle of Man registration, the ASSC paper quoted a registration fee of £50 for an individual self-catering property, increasing to £100 if registering more than one self-catering property

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<sup>63</sup> At paragraph 12.5. This was based on an estimate from the SOLAR representative on the Short-term Lets Stakeholder Working Group, see [Short Term Lets Working Group papers and minutes: February 2021](#). The relevant part of the minutes says that the representative was “concerned that the costs to local authorities would be similar to HMO costs, i.e. higher than set out in the BRIA. HMO fees could be up to £2,000 for a three year licence.”

<sup>64</sup> See footnote 62.

in the same location; if registering property in separate locations, the cost was £50 per property. Registration must be renewed each year, which means that the minimum cost of registration over a three-year period is £150 for a single property, £300 for more than one property in the same location and more if there are properties in multiple locations.

173. As set out in **Table 7**, the Scottish Government's view is that the **average** cost of a short-term let licence will be in the range of £214 to £436 for a three-year licence. We are therefore of the view that, for many hosts and operators, the costs will be closer to what survey respondents may have anticipated for a registration scheme than the £1,000 to £2,000 they may have anticipated for a licensing scheme and, in practice, their response will be closer to what they reported for a registration scheme than for a licensing scheme.
174. Note that the ASSC annual membership fee for a host or operator starts at just over £150<sup>65</sup>; the costs over three years would therefore be at least £450.
175. The ASSC also argued that hosts and operators have very significant concerns about the impact of requirement for a licence to be renewed every three years, arguing that<sup>66</sup>:
- a) taking bookings beyond the period when the licence needs to be renewed could be problematic;
  - b) lenders may be unwilling to lend to a business that may face a licence being refused or revoked;
  - c) the uncertainty may disincentivise owners to invest in improving their premises; and
  - d) it may have an impact on insurance cover.
176. The ASSC was particularly concerned about the renewal of a licence being linked to an overprovision policy<sup>67</sup> since, in their view, it would be difficult for a business owner to quantify the risk that their licence renewal would be refused on these grounds.
177. In October 2021, the Cabinet Secretary for Social Justice, Housing and Local Government announced a number of significant and pragmatic changes to the draft licensing order to respond to concerns raised in the consultation<sup>68</sup>. These

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<sup>65</sup> [Subscription Rates for ASSC membership](#); the owner/manager annual membership fee is currently £154.80, including VAT.

<sup>66</sup> Consultation responses are published on the Scottish Government website, see [Short-term lets: regulation information - gov.scot \(www.gov.scot\)](#).

<sup>67</sup> Whereby the decision whether to renew a licence could take into account the level of concentration of short-term lets in a control area.

<sup>68</sup> See footnote 12.

included removing conditions relating to overprovision (on the grounds that the powers given to local authorities to establish control areas are sufficient to implement overprovision policies). Additionally, the requirement for public insurance at a minimum of £5 million was changed to require adequate public insurance; this allows the insurance to be tailored to the particular circumstances, and will make it easier for hosts and operators to use public liability insurance provided by platforms as part of their booking service.

178. As a result of these changes, the Scottish Government's view is that whether the conditions for the renewal of a licence are met will now be substantially within the control of the short-term let host or operator. Provided they ensure that they continue to meet the mandatory safety conditions, their licence would normally be renewed. As a result, owners' incentives to invest in their business should not be diminished. Furthermore, there is no reason why lenders and insurers should be unwilling to extend financial products to such a business, provided that they are satisfied that the business is being run in a safe way, which should be part of their normal due diligence. By way of context, the requirement that private sector landlords and HMO operators renew their registration or licence every three years has not prevented financial products being provided to these sectors.
179. Furthermore, the Scottish Government's view is that design of the licensing system will not impose a disproportionate burden on hosts. Responsible hosts and operators will already be complying with the mandatory safety conditions. A tiered licence fee structure will take account of the size of the premises and the scale of the operation; this is discussed further in **section F4**. We do not regard it as plausible that half of the short-term lets hosts and operators would leave the sector as a result of the introduction of licensing, or that it would make financial sense for hosts to leave their properties vacant. Furthermore, we think there will be benefits from the licensing scheme to hosts and operators, such as removing unfair competition from operators who are not meeting minimum health and safety standards, which may improve guest confidence in the sector and support demand (see discussion in **Section E**).
180. Stakeholders have also expressed concern that the licensing system is being introduced while the sector is still being affected by COVID-19. **Section G2** presented evidence that occupancy rates have been recovering towards more normal levels, but acknowledged that the negative impact of COVID-19 on the finances of the sector will lag the recovery in occupancy rates. The implementation timetable gives existing hosts and operators time to recover from the impacts of COVID-19 before the deadline for them to submit a licence application (1 April 2023).

181. When considering the effect of the licensing and control area legislation on the wider economy, the effect on areas other than tourism must be considered, such as:

a) **Reduced costs on public services:**

- (i) Less need to contact local authorities or Police Scotland to deal with issues arising from a short-term let, where residents can contact the manager of the premises directly because they know who to contact.
- (ii) Reduced numbers and severity of incidents where accommodation meets mandatory safety standards and unsuitable hosts are not granted a licence. This could reduce costs incurred by local authorities, Police Scotland and the Scottish Fire and Rescue Service.

b) **Reduced costs from compliance failures.** A public register of short-term lets should bring greater transparency and compliance with insurance, tax, mortgage and planning permission conditions.

c) **Better functioning housing market:**

- (i) Local authorities should have greater knowledge about the prevalence and location of short-term lets in their local authority area. This will help them better understand the extent to which short-term lets are, or are not, contributing to local housing pressures.
- (ii) Numbers of short-term lets can be managed in areas where there is an insufficient supply of accommodation for local residents. This could reduce housing costs and/or costs to local authorities of temporary accommodation.
- (iii) Increased availability of housing from managing numbers of short-term lets could also help local employers recruit workers if they have more choice of accommodation within an appropriate commuting distance. These workers could contribute to the local economy by spending locally, working for local businesses and paying relevant taxes.

d) **Improved quality of life for residents:** The strength of resident responses expressed in the Scottish Government's research into short-term lets, as well as responses to the consultation process, suggests that there are significant concerns about the effect of short-term lets on local areas in terms of: sense of community, housing supply, safety and local amenities. The licensing scheme and Control Area Regulations will go some way to mitigating these concerns and improving quality of life for residents.

e) **Displacement to other tourism accommodation providers:** Previous sections of this BRIA have shown that the cost of a licensing scheme should be relatively small in comparison with earnings of a typical host. At the margin, there could be a small number of hosts that exit the sector. But this provides opportunities for other providers of tourist accommodation to meet this demand, helping to maintaining the overall level of employment opportunities in the tourist accommodation sector, as well as wider local economy.

182. These effects will vary across Scotland. Over half of properties in rural Scotland are detached houses (57% in remote rural areas and 50% in accessible rural areas), compared with only 18% of properties in the rest of Scotland. In rural areas over 90% of properties are houses or bungalows, compared with 60% in the rest of Scotland. In contrast, in the rest of Scotland, flats account for 39% of the housing stock, with only 7% of properties in both remote rural and accessible rural areas being flats<sup>69</sup>. Rural Scotland has a higher proportion of households that are owner occupied (c. 70%) compared with the rest of Scotland (60%)<sup>70</sup>. Rural areas tend to have less issue with noise and nuisance (not least because of the greater proportion of detached properties) but housing pressures can be acute in tourism hot spot areas; the nearest affordable housing for local people may be at some distance from their work and community. (Note that these housing pressures can affect other tourism businesses, for example hotels needing accommodation for their staff.)

183. The Scottish Government's view is that, in areas where there is a significant reduction in short-term let activity, this will be the result of deliberate and legitimate policy decisions by local authorities using the control area regulations to achieve that aim, rather than the impact of the licensing system. Furthermore, any deliberate reduction in short-term let activity in an area would have compensating economic benefits for that area. For example, a secondary let might be repurposed as a private residential tenancy with a permanent member of the community earning and spending in that community. Visitors who might have used that accommodation are likely to be able to find other accommodation that meets their needs, and it therefore seems unreasonable to assert that the visitor spend would not occur at all. If any reduction in overall economic activity remains, this must be set against the wider social benefits from controlling the level of short-term lets in hotspot areas.

## **H: Scottish Firms Impact Test**

184. The firms most affected by this legislation are hosts and operators providing accommodation, where they are set up as businesses. However, as discussed

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<sup>69</sup> Table 22 in [Rural Scotland Key Facts 2021](#).

<sup>70</sup> Figure 10 in [Rural Scotland Key Facts 2021](#).

in **section B1.1**, it is challenging to gauge the full size of the short-term lets market, as providers are able to offer accommodation ranging from shared rooms, single rooms, whole homes and other unconventional accommodation; these include domestic and commercial properties.

185. Self-catering properties, B&Bs and guest houses registered on the NDR valuation roll are particularly likely to be set up as businesses: **Table 1** shows that on 1 April 2021 there were 19,615 such premises. However, there are also a number of premises operating as commercial accommodation providers that are registered for council tax, rather than Non-Domestic Rates. While at present there is limited data on the scale of this section of the accommodation sector, over 1,400 small accommodation providers on the council tax roll had received COVID-19-related grant support through the Small Accommodation Providers Paying Council Tax Fund by late-April 2021<sup>71</sup>; this included bed and breakfasts, guest houses, and self-catering premises.
186. One of the conditions of the Fund was that business receipts represented a primary source of income (one third or more of earnings)<sup>72</sup>; therefore, the number applying for grants provides an approximate estimate of commercial short-term let operators on the council tax roll, although it will be affected by factors such as the level of take-up. In addition, there will be hosts with accommodation on the council tax role who are undertaking activities such as home sharing, etc., which are a supplementary source of income rather than constituting a business per se.
187. There is also a whole ecosystem around the provision of short-term let accommodation ranging from platforms such as Airbnb, booking.com and Expedia through to hosting intermediaries and holiday letting agencies. In **section C3** above, and in the 2020 and 2021 consultation reports, we have set out how we have engaged with all the different types of actor in the system, and in **section E** above we have set out the various costs and benefits of regulation to the different actors.
188. The STAA, Airbnb and ASSC have made strong representation on behalf of hosts and operators. Airbnb has stated that they considered the proposed regulatory system to be complex, costly and unfair for hosts<sup>73</sup>. During the 2020 consultation, Airbnb published a table setting out the steps that hosts would need to take to comply<sup>74</sup>. They said:

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<sup>71</sup> Source: Non-Domestic Rates Roll, June 2021; [Covid-19 Business Support Experimental Statistics: Strategic Framework Business Fund \(Tranche 6\) and Other Local Authority Support Schemes.](#)

<sup>72</sup> [Coronavirus \(COVID-19\): Small Accommodation Providers Paying Council Tax \(SAP-CTF\).](#)

<sup>73</sup> In meetings and correspondence.

<sup>74</sup> <https://news.airbnb.com/wp-content/uploads/sites/4/2020/10/ScotlandShortTermLetsProposal1310.pdf>

*The Scottish Government is consulting on a new licensing and planning framework for short-term lets, coming into force in April 2021. We think it's complex, costly and unfair for hosts. Find out more about what the Scottish Government has set out below, and speak to your local politician with your thoughts on how this will affect you.*

189. These steps are set out at **Annex D**, together with the Scottish Government's comments.
190. The ASSC has also engaged its membership and with the Scottish Government and the principal concerns expressed in response to the 2021 draft BRIA are set out at **Annex E**.
191. As has been discussed in **section G3**, we do not anticipate that the introduction of the licensing system will have a significant negative impact on short-term let operators and hosts. This is because responsible hosts and operators will already be complying with most if not all of the mandatory licensing conditions. We also do not anticipate that the licence fee will impose a disproportionate cost on businesses. In **section F4**, we have set our estimates of likely fees and scaled them to typical earnings to support this conclusion.
192. With respect to small and micro businesses, there is one licence required per premises, which means that small and micro businesses operating in only one premises should only need one licence. Furthermore, as discussed in **section F4**, Scottish Government guidance will make clear that local authorities should put in place a tiered licensing fee structure. This should help avoid creating a barrier to small and micro businesses.
193. The imposition of a licensing system across Scotland is not expected significantly to inhibit the competitiveness of Scottish firms with the rest of the UK and the world. This is because a visit to Scotland is not a service which is (in economic terminology) a perfect substitute for a visit to another country, which means that the price elasticity<sup>75</sup> of demand is not as high as is the case for goods and services which are easily tradeable or substitutable. That said, at the margin, if additional costs due to the licensing system were to push up the cost of short-term let accommodation significantly, this could lead to visitors to choose to travel to other countries<sup>76</sup>. However, as discussed above, we anticipate that the licencing system will not impose a disproportionate burden on hosts and operators. The licencing system is also expected to provide compensating benefits to hosts and operators by increasing consumer confidence in their offering; this may be particularly important for international

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<sup>75</sup> Price elasticity is a measure of how much the quantity demanded for a good and service varies with a change in its price.

<sup>76</sup> This might apply in particular to accommodation near the border, where tourists could stay in one country but visit another.



travellers who might otherwise find it harder to know how to obtain reliable information on the safety of different types of accommodation.

## **I: Competition Assessment**

194. Where short-term lets continue to operate, the legislation will improve competition by ensuring basic safety standards are applied in all accommodation. (This removes the “cheat’s advantage”.) It will increase hosts and operators’ incentives to compete vigorously on discretionary quality considerations such as guest comfort and unique selling points. As was set out in **section F** and **section G3**, we do not anticipate that introduction of the licensing system will impose a disproportionate burden on short-term let hosts and operators.
195. In some areas, local authorities may choose to implement control areas specifically to reduce the number or manage the growth of short-term lets and this could be expected to increase demand for hotel accommodation in these areas. However, local authorities will not want to overregulate the sector. Every local authority welcomes the contribution to the local economy from visitors and local authorities compete to attract visitors to Scotland to their area. Local authorities will use their new powers to find the right balance between the interests of local residents and communities and their wider tourism economy. It will be for local authorities to consider this impact in detail as and when they use the powers.
196. The legislation should not adversely impact Scotland’s competitiveness. The legislation will provide greater assurance to foreign visitors about their stay. It should improve Scotland’s reputation as a place to stay.

Will the proposal directly limit the number or range of suppliers? **No**

Will the proposal indirectly limit the number or range of suppliers? **Yes** – see paragraph 195 above.

Will the proposal limit the ability of suppliers to compete? **No**

Will the proposal reduce suppliers' incentives to compete vigorously? **No**

## **J: Consumer Assessment**

197. The Scottish Government definition of a consumer is "*anyone who buys goods or digital content, or uses goods or services either in the private or public sector, now or in the future*".

198. In the context of short-term lets, the consumer is primarily the **guest**. However, **hosts** may also be consumers of services provided by platforms, letting agents and hosting intermediaries.

199. In terms of the consumer assessment questions:

Does the policy affect the quality, availability or price of any goods or services in a market? **Yes**.

Does the policy affect the essential services market, such as energy or water? **No**.

Does the policy involve storage or increased use of consumer data? **No**, in respect of the primary consumer; there is no change to the way guests' data is stored. However, **yes**, in respect of data on hosts and operators, as local authorities will be using and storing more information about them.

Does the policy increase opportunities for unscrupulous suppliers to target consumers? **No**.

Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these? **Yes**.

Does the policy affect routes for consumers to seek advice or raise complaints on consumer issues? **Yes**.

200. The legislation primarily regulates the provision of short-term lets by the host or operator to guests. The legislation has the effect of strengthening the position of the guest in terms of assuring them that their accommodation meets basic safety standards. The legislation makes it easier for guests or neighbours to raise concerns about a short-term let with the host, or the relevant local authority, should that be necessary. This is of particular benefit to more vulnerable guests or neighbours who may have been reluctant to raise concerns in the past.

201. These short-term lets are more commonly provided for leisure purposes but can include stays for work. As we are not regulating access to an only or principal home, this is not an essential services market.

202. The legislation provides increased protection for guests (as well as neighbours and communities). Hosts seeking to ensure compliance with the mandatory conditions will need to be wary of unscrupulous suppliers selling assessments (e.g. fire risk or legionella) that are not valid or overpriced. We will be setting out in guidance for hosts and platforms how they can avoid this. For example, some assessments are relatively straightforward for hosts to complete themselves.

203. The Licensing Order will result in local authorities retaining more data on short-term let hosts and making more of this publicly available. The handling of data is covered in more detail in the Data Protection Impact Assessment. But it will be possible for short-term let accommodation to be identified from the register and for that address to be targeted for marketing purposes; but note the natural name of a host living at that address will not be on the register.
204. Local authorities will recoup the cost of operating the licensing scheme through fees charged to hosts and operators. Some of this cost may get passed on to guests through higher costs for booking the accommodation. The overall effect is that guests should pay for and receive, and be assured of, a higher quality (safer) service, although hosts may absorb some of the cost.
205. The availability of short-term let accommodation may be reduced in some areas either where margins were already very tight or where the local authority makes this a deliberate policy, but see paragraph 191 above.
206. The licensing scheme will affect terms and conditions for bookings. Clearly, a host will not be able to provide accommodation if the booking is for a period after which the licence application is refused or the licence suspended or revoked.

## **K: Test run of business forms**

207. Hosts and operators, or their agents, will be asked to complete a licensing application form as part of the licensing process. This will provide information to support the determination of the application and some of it will be published in the register. These application forms will be designed by local authorities to support their own local processes. Scottish Government will provide guidance to local authorities on this and work with them to assist in sharing best practice between local authorities. Scottish Government will be encouraging a digital first approach, but acknowledging this will not be possible for every local authority from 1 October 2022.
208. The planning application process is well established in each local authority area and the relevant forms have evolved over time.

## **L: Digital Impact Test**

209. The Licensing Order and Control Area Regulations are a response to a rapid growth in short-term lets, largely driven by the success of online platforms. The technology might be expected to evolve further but the basic business model of facilitating the matching of guest to host, where either are based anywhere in the world, is unlikely to change.

210. This legislation is relevant and important however the accommodation is marketed and made available. At the end of the day, it will always involve the physical presence of guests in a physical structure. Making sure that this can take place safely, and without undue adverse impact on neighbours and communities, will continue to be important.
211. The licensing scheme is capable of operating efficiently through on-line means with:
- applications submitted on-line by hosts to local authorities;
  - licence URNs displayed by platforms on their websites;
  - public access to applications over the internet;
  - public access to the register over the internet;
  - use of photos or videos submitted to local authorities to demonstrate compliance;
  - other electronic certification or scanned images of paper certification; and
  - participation in licensing committee hearings through videoconferencing.
212. The degree to which this is possible will depend on the policies, practices and technology available in each local authority area.

### **M: Legal Aid Impact Test**

213. We do not anticipate any impact on the Legal Aid Fund from the Licensing Order or Control Area Regulations. It is possible for an individual to make an application for Legal Aid if they wish to appeal the decision of a licensing board (to the sheriff court). Prior to the Scottish Legal Aid Board considering whether to grant such an application, the client must set out why they would be adversely affected by the licensing board's decision and their solicitor must set out a statement of the grounds for appeal. We anticipate that only a very few cases would both be appealed before a sheriff and be successful in obtaining legal aid.

### **N: Enforcement, sanctions and monitoring**

214. Local authorities will be responsible for considering applications, variations, monitoring compliance and for enforcement. The monitoring and enforcement costs to local authorities can be included within the application and renewal (or monitoring) fees and offset, at least in part, through some fees for visits to

premises. Scottish Government guidance will encourage a proportionate, risk-based approach to monitoring and enforcement by licensing authorities.

215. The 1982 Act sets out offences, including operating a short-term let without a licence. Offences also include non-compliance with the conditions of a licence and unauthorised changes to a premises. It is also an offence to make a false statement in an application and this would also apply to renewal applications. These attract fines on the standard scale<sup>77</sup>:
216. It is an offence, without reasonable excuse, to carry on an activity for which a licence is required without having such a licence. Depending on the activity, different punishments apply. The default is a fine not exceeding level 4 (£2,500) on the standard scale. We will amend the maximum level of fine to £50,000 through primary legislation in this Parliament. This is because secondary letting of a normal home can yield much more revenue than letting under the 2016 Act. With “party mansions”, the revenue may be significantly higher.
217. It is an offence to fail to comply with a licence condition, though it is a defence to have used all due diligence to prevent the offence. The default is a fine not exceeding level 3 (£1,000) on the standard scale. We will amend the maximum level of fine to £10,000 through primary legislation in this Parliament. One licence condition may be to limit the number of guests in the accommodation. Breaching this condition might lead to significantly more revenue. The fine for failing to comply with the licence condition must outweigh the profit made from such a breach.
218. It is an offence for a licence holder, without reasonable excuse, to: fail to notify the licensing authority of a material change of circumstances, with a fine not exceeding level 3 (£1,000) on the standard scale; make or cause or permit to be made any material change in the premises, with a fine not exceeding level 3 (£1,000) on the standard scale; or fail to deliver the licence to the licensing authority, with a fine not exceeding level 1 (£200) on the standard scale.
219. It is an offence to make a false statement in an application. The default is a fine not exceeding level 4 (£2,500) on the standard scale. We will amend the maximum level of fine to £10,000 through primary legislation in this Parliament. 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.

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<sup>77</sup> As set out at section 225 of the Criminal Procedure (Scotland) Act 1995.

## **O: Implementation and delivery plan**

220. The 2020 Licensing Order and Control Area Regulations were laid in the Scottish Parliament on 14 December 2020.
221. The Control Area Regulations came into force on 1 April 2021.
222. The 2020 Licensing Order was withdrawn in February 2021, in order to address concerns raised by members and stakeholders, and to develop draft guidance. A revised Licensing Order was published in draft in June 2021, for consultation, and was laid in the Scottish Parliament in November 2021. However, local authorities will have until 1 October 2022 to establish a licensing scheme in their area and open it to receive applications. Local authorities may choose to establish control areas if these are right for local circumstances.
223. The Licensing Order gives existing hosts until 31 March 2023 to make an application for a licence. Existing hosts will be able to continue operating whilst their licence application is being processed. By 1 July 2024, all hosts operating short-term lets in Scotland will require a licence to do so.
224. The Scottish Government published draft guidance on the licensing scheme for hosts and operators, licensing authorities, letting agencies and platforms in June 2021. This guidance will be finalised over the winter, with input from the stakeholder working group, in early 2022. The stakeholder working group will be reconvened over the winter to finalise the guidance on the licensing scheme and prepare for implementation in 2022. The Scottish Government will work with local authorities and others to ensure that hosts and operators are aware of the requirements of the licensing scheme and can take action to get ready.

### **O1. Post-implementation review**

225. We will monitor and evaluate the impact of our proposals to ensure that they are effective and targeted.
226. We have committed to work with local authorities to review levels of short-term let activity in hotspot areas in summer 2023. This review will identify whether any further measures are required to control numbers but also seek to confirm that the wider sector is still healthy, making sure we have avoided unintended consequences.
227. We have also committed to make further provision in this Parliament around fines and sanctions which we are not able to progress through secondary legislation (as set out above at paragraph 215 and following).

## **P: Summary and recommendation**

228. Based on evidence gathered during the 2019 consultation and research, the 2020 consultation, the 2021 consultation and through wider stakeholder engagement, the Scottish Government is confident that the preferred option (b), implementing a licensing scheme and empowering local authorities to go further with discretionary conditions and control areas, as needed, is the right approach. A summary of costs and benefits can be found in **section E** of this BRIA.
229. The likely levels of application and renewal fees will be relatively small in comparison to the earnings that can be derived from short-term lets, particularly when spread over a likely three year duration of the licence. 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.
230. On the other hand, there are potentially very significant benefits to guests, residents, the wider local community and public-sector bodies from improving the functioning of the short-term let sector, through improved safety, reduced noise and nuisance and better local housing market outcomes. While it is difficult to monetise these benefits precisely, evidence from Scottish Government research, responses to the 2019, 2020 and 2021 consultations, and feedback to local authorities from residents indicates that the negative impacts that arise when the short-term let market does not function well can be considerable.
231. Setting these potentially very significant benefits from a well-regulated short-term let sector against the modest costs of operating the regulatory regime implies that there will be a clear net social benefit from regulation. This conclusion is strengthened by the fact that the regulatory regime will offer significant flexibilities, so that local authorities are able to tailor the regime to local conditions, maximising the economic benefits from short-term lets while minimising any harmful impacts on wider society.

## **Declaration and publication**

*I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.*

### **Signed:**



**SHONA ROBISON**

**Date: 17 November 2021**

**Minister's name:** Shona Robison

**Minister's title:** Cabinet Secretary for Social Justice, Housing and Local Government

### **Scottish Government Contact point:**

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## Annex A: Assumptions underpinning the licence fee model

1. This annex provides further detail on the assumptions and methodology used to calculate the indicative, average application fees that would need to be charged to recover establishment and running costs in scenarios 1 and 2 from **section F**. It is worth reiterating that the actual fees to be charged will be determined by local authorities and the information provided in this BRIA is not to be seen as a requirement on local authorities or a commitment by them to charge any particular fees. These assumptions have been informed by discussions with local authority licensing officials or other sources of information.
2. Our approach to this costing has been to devise two indicative, hypothetical scenarios for the time and cost involved in processing an **average** licence application and applying five different levels of premises inspection for each scenario. Scenarios 1 and 2 are designed to reflect a situation where there are low or high operating costs, respectively. **Section F** presents the main assumptions. Other assumptions not outlined there are set out below.

### Further assumptions

3. We have factored in the cost of staff training, adding 2% to the cost of staff at each grade. This is equivalent to assuming that a member of staff working full time on short-term lets will require one month of training, during which time they are unable to undertake other work, and that this training will last for five years (because the member of staff may rotate to another area or otherwise leave post, or further training might be required after five years) so that the costs can be spread over this period. We value this time using the staff costs (on a cost to business basis) for the appropriate level of staff.
4. As part of the licence application process, we have presented a range of rates of physical property inspections, which environmental health officers will carry out, namely: 10%, 25%, 50%, 75%, and 100% of applications under **both** scenario 1 and scenario 2.
5. We have assumed that local authorities will need to lease vehicles so that environmental health officers can visit short-term let properties. Public transport (or, in some areas with a high density of short-term lets, walking) may be a cheaper and viable alternative in some instances and this could reduce cost. However, in local authorities where there is a lower level of population density, this would be impractical (i.e. cost more than running a vehicle(s)). We have assumed in scenario 1 that it takes an environmental health officer 1 hour to drive to a short-term let premises and a further 2.5 hours to carry out their inspection and write-up; before taking 1 hour to drive on to the next one. In scenario 2, we have assumed that it takes 2.25 hours to drive to a short-term

let premises and a further 2.5 hours to carry out their inspection and write-up; before taking 2.25 hours to drive on to the next one. The latter reflects a rural local authority where it may take a considerable amount of time to visit each short-term let (given they are likely to be located in more remote areas). We have assumed that it costs £300 per month per vehicle in lease costs, and have made an allowance for fuel costs.

6. We have assumed that postage costs for local authorities will be negligible (making up all of the 'Other' column total of less than £1 per application). Postage costs relate to notification of interested parties in relation to applications going to committee. This includes costs of envelopes, stamps and printing.
7. We have assumed in both scenarios that it takes, on average, 1.5 hours of licensing officer time to deal with objections about an application or renewal, and this affects 10% of applications in scenario 1, and 20% of applications in scenario 2. In some instances, the time taken might be much shorter, but in others could be considerably longer; this is an **average** and we would expect the variance to be high.
8. We have assumed that where an application goes to committee that input will be required from both licensing officers and solicitors. In scenario 1 we have assumed that 3% of cases will go to committee, and that this will involve 5 hours of licensing officer time and 5 hours of solicitor time. In scenario 2 we have assumed that 6% of cases will go to committee, and that an additional 5 hours of solicitor time will be required to prepare a statement of reasons<sup>78</sup>.
9. Where licence applications are appealed, this is likely to demand a significant amount of time from licensing authorities, particularly from solicitors and senior solicitors. However, the likelihood of cases being appealed is assumed to be low in both scenarios. In scenario 1 we have assumed that 0.5% of applications will be appealed, requiring 5 hours of licensing officer time, 25 hours of solicitor time, and 10 hours of senior solicitor time. In scenario 2 we have assumed that 2% of applications will be appealed, and that this will require 10 hours of licensing officer time, 20 hours of solicitor time, and 25 hours of senior solicitor time.
10. We have allocated half an hour of licensing officer time in both scenarios to responding to general queries.
11. We have assumed that the time spent by administrative staff and licensing officers (excluding time spent dealing with complaints, queries or committees, or responding to the applicant with licensing information and updating the short-

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<sup>78</sup> Total staff time of 5 hours licensing officer, and 10 hours solicitor.

term let register, or notifying residents of application/renewal by administrative staff) increases by 50% in scenario 2 to reflect the extra time taken to liaise with applicants to correct information.

12. It is assumed that monitoring and enforcement activity (including handling complaints) is split evenly between officer and administrative staff. We have allowed for 1 hour of time to undertake monitoring and enforcement activity in scenario 1, and 2 hours in scenario 2. Additionally, we have included time at officer level for carrying out inspections of licensed short-term lets during the licence period. These inspections would be in response to complaints, and also as part of a proportionate, and intelligence led inspection regime to ensure compliance with mandatory safety conditions, and any other conditions added by licensing authorities. We have assumed that 5% of properties would be inspected for monitoring and enforcement purposes in scenarios 1, and 10% in scenario 2.
13. We have assumed in both scenarios that applications and renewals are submitted by post and not submitted digitally. Local authorities might adapt existing IT systems, introduce new IT systems or use administrative staff to process incoming paper licence applications and renewals. The cost implications of these options would vary significantly. We have assumed that administrative staff process incoming paper licence applications and renewals; however, it is likely that larger local authorities, or those with a large number of short-term lets in their area, may be able to substitute this for IT systems that perform the same role as administrative staff more cheaply (so utilise less administrative staff).

### **Summary of cost and time elements**

14. **Table A1** below summarises the time and cost elements under scenarios 1 and 2.

<b>Table A1. Indicative Cost of Licensing System (Application/Renewal, Average Fee)</b>										
Average, per application or renewal	Scenario 1					Scenario 2				
	10%	25%	50%	75%	100%	10%	25%	50%	75%	100%
<b>Staff Time (Hours)</b>										
<b>A. Processing Applications &amp; Renewals</b>										
<b>Administrative Staff</b>	1.5	1.5	1.5	1.5	1.5	2.3	2.3	2.3	2.3	2.3
Tasks (summary): <ul style="list-style-type: none"> <li>Receives and processes postal applications and renewals; checks required information is supplied; notifies nearby neighbours of application/renewal by post; liaises with applicants to correct information, and posts back documents supplied as evidence.</li> </ul>										
<b>Officers</b>	6.5	6.8	7.3	7.8	8.3	8.4	8.7	9.7	10.6	11.4
Tasks (summary): <ul style="list-style-type: none"> <li>Licensing Officer: checks that required information is supplied; liaises with applicants to correct information; reviews compliance with mandatory licence conditions, including consultation with relevant authorities; provides successful applicant with licensing information and documentation; updates short-term let register; deals with objections about applications/renewals and licensing committees, and responds to general queries.</li> <li>Environmental Health Officer: checks property is safe to be let as an short-term let and maximum occupancy.</li> <li>Planning Officer: checks compliance with relevant planning permission conditions.</li> </ul>										
<b>Solicitors</b>	0.3	0.3	0.3	0.3	0.3	2	2	2	2	2
Tasks (summary): <ul style="list-style-type: none"> <li>represents licensing authorities at committees and appeals, prepares statement of reasons (where required).</li> </ul>										

<b>B. Monitoring &amp; enforcement activities</b>										
<b>Officers &amp; Admin Staff</b>	1.2	1.2	1.2	1.2	1.2	2.5	2.5	2.5	2.5	2.5
Tasks (summary):										
• Monitoring and enforcement activities to ensure that all short-term lets are licensed and these properties continue to meet licence conditions, as well as handling complaints.										
<b>Total Staff Time (Hours)</b>	9.7	10.0	10.5	11.0	11.5	15.4	15.8	16.7	17.5	18.3
<b>Costs (£)</b>	<b>Scenario 1</b>					<b>Scenario 2</b>				
	<b>10%</b>	<b>25%</b>	<b>50%</b>	<b>75%</b>	<b>100%</b>	<b>10%</b>	<b>25%</b>	<b>50%</b>	<b>75%</b>	<b>100%</b>
Staff Costs	209	216	228	239	251	342	354	373	392	411
Staff Training	4	4	4	4	4	6	6	6	7	7
Transport	2	4	6	9	11	3	6	10	10	18
Other	1	1	1	1	1	1	1	1	1	1
<b>Total Cost (£) (3 Year Licence)</b>	<b>214</b>	<b>223</b>	<b>237</b>	<b>252</b>	<b>266</b>	<b>352</b>	<b>366</b>	<b>390</b>	<b>413</b>	<b>436</b>
<i>Annual Equivalent</i>	71	74	79	84	89	117	122	130	138	145
<b>Note:</b>										
• Hours are rounded to the nearest one decimal place and may not necessarily sum.										
• Total cost is rounded to the nearest £1 and may not necessarily sum.										

## Annex B: Local authority HMO licence fees

The following table shows the lowest HMO fee charged by local authorities in Scotland:

Local Authority	Licence Period	Number of residents	Application Fee <sup>79</sup>	“Renewal” Fee <sup>80</sup>
Aberdeen City	Up to 3 years	3-5 residents	£655 <sup>81</sup>	£528
Aberdeenshire	Up to 3 years	3-4 residents	£790	£780
Angus	Up to 3 years	3-5 residents	£349	-
Argyll and Bute	Up to 3 years	Up to 10	£874	-
Clackmannanshire	Up to 3 years	Less than 10	£543	-
Dumfries and Galloway	Up to 3 years	3-5 residents	£1,045	£709
Dundee <sup>82</sup>	Up to 3 years	3-5 residents	£1,140	£960
East Ayrshire	Up to 3 years	Flat fee, all HMO licences	£584	£366
East Dunbartonshire	Up to 3 years	Up to 10	£540	-
East Lothian	Up to 3 years	3-5 residents	£468	-
East Renfrewshire	Up to 3 years	Up to 6	£830	£523
Edinburgh	1 or 3 years	3 residents	£653	-
Falkirk	Up to 3 years	Flat fee, all HMO licences	£565	£565
Fife <sup>83</sup>	Up to 3 years	3-5 residents	£1,480	-
Glasgow	Up to 3 years	Up to 10	£1,906	£953
Highland	Up to 3 years	Up to 10	£801	-
Inverclyde	Up to 3 years	Flat fee, all HMO licences	£1,264	-
Midlothian	Up to 3 years	3-5 residents	£266	£167
Moray	Up to 3 years	3-5 residents	£1,800	-
Na h-Eileanan Siar	Up to 3 years	Flat fee, all HMO licences	£296	£206
North Ayrshire	Up to 3 years	Flat fee, all HMO licences	£954	£716
North Lanarkshire	Up to 3 years	Flat fee, all HMO licences	£1000	£1000
Orkney	Up to 3 years	Up to 9	£453	-

<sup>79</sup> Rounded to the nearest pound. Information correct as of October 2021.

<sup>80</sup> “Renewal” means an application made where there is already a licence in effect.

<sup>81</sup> Comprising £490 for determining the application and £165 for inspecting the premises over the three years of the licence.

<sup>82</sup> Dundee charges £58 for additional inspections.

<sup>83</sup> Fife charges: £190 for a pre-application inspection; £100 for a missed appointment; and £24 for reissuing a licence.

<b>Local Authority</b>	<b>Licence Period</b>	<b>Number of residents</b>	<b>Application Fee<sup>79</sup></b>	<b>“Renewal” Fee<sup>80</sup></b>
Perth and Kinross	Up to 3 years	3-5 residents	£714	-
Renfrewshire	Up to 3 years	Flat fee, all HMO licences	£1,060	-
Scottish Borders	Up to 3 years	Flat fee, all HMO licences	£608	-
Shetland	Up to 3 years	Up to 6 persons	£234	-
South Ayrshire	Up to 3 years	Flat fee, all HMO licences	£1,080	-
South Lanarkshire	Up to 3 years	3-5 residents	£340	-
Stirling	Up to 3 years	3-5 residents	£697	£697
West Dunbartonshire	Up to 3 years	Flat fee, all HMO licences	£1,916	-
West Lothian	Up to 3 years	3-50 residents	£695	-

## Annex C: Compliance cost estimates for mandatory conditions

Schedule 3 of the Licensing Order sets out the mandatory conditions with which a short-term let host must comply. These are set out below with a commentary on the time, effort and cost involved. Scottish Government cost estimates are based on a two-bedroom property but we also reference estimates emerging from the ASSC snap survey of self-caterers (see **Annex C2**).

Mandatory condition	Cost estimate	Annualised cost range	Currently a legal requirement on:	New legal requirement on:	Additional cost range
<b>1. Agents</b>  Only those named as a holder of the licence can carry out the day to day management of the short-term let of the premises.	£0 - We do not consider that compliance with this condition will impose a cost	£0	No premises.	All premises.	£0
<b>2. Type of licence</b>  The holder of the licence may only offer the type of short-term let for which the licence has been granted.	£0 - We do not consider that compliance with this condition will impose a cost	£0	No premises.	All premises.	£0



Mandatory condition	Cost estimate	Annualised cost range	Currently a legal requirement on:	New legal requirement on:	Additional cost range
<p><b>3. Fire safety: detection</b></p> <p>The holder of the licence must ensure the premises has satisfactory equipment installed for detecting, and for giving warning of:</p> <ul style="list-style-type: none"> <li>• fire or suspected fire, and</li> <li>• carbon monoxide present in a concentration that is hazardous to health.</li> </ul>	<p><b>For indicative purposes, we estimate £220</b> for a sealed long-life battery system which would last for ten years. A hard-wired alarm would cost more and should be installed by an electrician.</p> <p>ASSC survey suggests around £400.</p>	<p>£22 to £40</p>	<p>Home sharing and home letting, as this becomes a legal requirement for owner occupiers from February 2022 under separate legislation.</p> <p>Secondary letting of dwellinghouses.</p>	<p>Unconventional accommodation.</p>	<p>£0 pa for home sharing and home letting</p> <p>£22 to £40 pa for unconventional accommodation</p>

Mandatory condition	Cost estimate	Annualised cost range	Currently a legal requirement on:	New legal requirement on:	Additional cost range
<p><b>4. Fire safety: furniture and fittings</b></p> <p>The holder of the licence must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988.</p>	<p>Negligible.</p> <p>We do not consider compliance with fire safety and record keeping to be generate any significant cost.</p>	<p>Negligible.</p>	<p>No premises.</p>	<p>All premises.</p>	<p>Negligible, assuming suitable records have been kept (or can be readily obtained) with regard to existing upholstered furnishings and mattresses. (Usually, the furniture is labelled as such.)</p>

Mandatory condition	Cost estimate	Annualised cost range	Currently a legal requirement on:	New legal requirement on:	Additional cost range
<p><b>5. Gas safety</b></p> <p>Where the premises has a gas supply, the holder of the licence must arrange for an annual gas safety inspection of all gas pipes, flues and appliances in the premises and arrange for any repairs in order that the required safety standard is met.</p>	<p>Estimate <b>£80 annually</b><sup>84</sup> for gas safety inspection.</p> <p>ASSC survey suggests £136 for gas safety inspection.</p> <p>We do not consider any repairs to be a new cost.</p>	<p>£80 to £136</p>	<p>No premises.</p> <p>Previously: best practice.</p>	<p>Premises with a gas supply.</p> <p>This cost will not apply to accommodation without a gas supply (most likely off the gas grid in more rural areas).</p>	<p>£0 pa for premises without gas.</p> <p>Up to £136 pa for premises with gas.</p>

<sup>84</sup> See [www.checkatrade.com/blog/cost-guides/gas-safety-certificate-cost/](http://www.checkatrade.com/blog/cost-guides/gas-safety-certificate-cost/) where they recommend budgeting £80.

Mandatory condition	Cost estimate	Annualised cost range	Currently a legal requirement on:	New legal requirement on:	Additional cost range
<p><b>6. (&amp; 7.) Electrical Safety</b></p> <p>The holder of the licence must have any electrical fittings in areas used by guests in a reasonable state of repair, and proper and safe working order as demonstrated through an electrical safety inspection written up in an Electrical Installation Condition Report (EICR).</p>	<p><b>Estimate £180</b> every five years for an EICR, depending on age and condition of wiring.</p> <p>ASSC survey suggests £257 for an EICR.</p> <p>(Excluding any repair and maintenance of electrical fittings identified through testing.)</p>	<p>£36 to £54</p>	<p>No premises. Previously best practice.</p>	<p>All premises.</p>	<p>From £36 pa to £54 pa.</p>

Mandatory condition	Cost estimate	Annualised cost range	Currently a legal requirement on:	New legal requirement on:	Additional cost range
<p>The holder of the licence must have any electrical items in areas used by guests in a reasonable state of repair, and proper and safe working order as demonstrated through a Portable Appliance Testing Report on moveable appliances to which a guest has access.</p>	<p><b>Estimate £100</b> annually (but this may be included in a quote for an EICR).</p> <p>ASSC survey suggests £189 for Portable Appliance Testing.</p> <p>(Excluding any repair and maintenance of electrical items identified through testing.)</p>	<p>£100 to £189</p>	<p>No premises. Previously best practice.</p>	<p>All premises.</p>	<p>From £100 to £189 pa.</p>

Mandatory condition	Cost estimate	Annualised cost range	Currently a legal requirement on:	New legal requirement on:	Additional cost range
<p><b>8. Water safety: private water supplies</b></p> <p>Where a premises is served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.</p>	<p>Estimate <b>£200 one-off</b><sup>85</sup> cost for carrying out a risk assessment and in the region of <b>£250 annually</b><sup>86</sup> for costs associated with monitoring drinking water quality.</p> <p>ASSC survey suggests £407.</p>	<p>£250 to £407</p>	<p>Home sharing and home letting.</p>	<p>Secondary letting or unconventional accommodation served by a private water supply.</p>	<p>£0 pa for home sharing and home letting.</p> <p>Up to £407 pa for secondary letting and unconventional accommodation served by a private water supply.</p>

<sup>85</sup> In 2017, this was estimated at £200 per property, see table following paragraph 198 in [www.gov.scot/publications/energy-efficiency-condition-standards-private-rented-housing-scotlands-energy-efficiency/pages/5/](http://www.gov.scot/publications/energy-efficiency-condition-standards-private-rented-housing-scotlands-energy-efficiency/pages/5/)

<sup>86</sup> Argyll & Bute Council estimate.

Mandatory condition	Cost estimate	Annualised cost range	Currently a legal requirement on:	New legal requirement on:	Additional cost range
<p><b>9. Water safety: Legionella</b></p> <p>The holder of the licence must assess the risk from exposure to Legionella within the premises, whether or not the short-term let has a private water supply.</p>	<p>This is an assessment which the host can do themselves by inspecting tanks and pipework within the premises.</p> <p>Estimate <b>£17 one-off</b><sup>87</sup> for time reading up and carrying out the inspection.</p> <p>ASSC survey suggests £75.</p>	<p>One-off.</p>	<p>No premises. Previously: best practice.</p>	<p>All premises.</p>	<p>From £17 to £75 one-off cost.</p>

<sup>87</sup> Assuming the applicant took one hour to do this themselves. Cost of time for applicants in industry is £17 per hour (for reading regulations and filling out forms, etc.). This comprises average (median) gross hourly pay in the Scottish Real Estate sector of £14 in 2020 ([ONS, Annual Survey of Hours and Earnings, Table 5.5a, all earnings](#)), uplifted by 22% to reflect non-wage labour costs (as per [UK Government Regulatory Policy Committee guidance note on implementation costs](#)).

Mandatory condition	Cost estimate	Annualised cost range	Currently a legal requirement on:	New legal requirement on:	Additional cost range
<p><b>10. Safety and repair standards</b></p> <p>The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use. This means meeting the repairing standard where it applies.</p>	<p>Depends on the premises.</p> <p>Certain elements of the repairing standard are required by other licence conditions, for example, fire and carbon monoxide detectors.</p>	<p>Depends on the premises.</p>	<p>Houses (under the repairing standard).</p>	<p>Unconventional accommodation. Previously best practice.</p>	<p>We do not consider there to be additional costs from making sure that the premises are safe.</p>



Mandatory condition	Cost estimate	Annualised cost range	Currently a legal requirement on:	New legal requirement on:	Additional cost range
<p><b>11. Maximum occupancy</b></p> <p>The licence holder must ensure that the number of guests residing in the premises does not exceed the number specified on the licence.</p>	<p>Estimate: <b>£22 one-off</b><sup>88</sup> cost to provide a dimensioned layout of the property, where this is needed.</p> <p>There may be additional costs in providing the local authority with information to justify a maximum occupancy that appears high (e.g. 10 people in a two bedroom property).</p>	<p>One-off.</p>	<p>No premises.</p> <p>Previously: normal practice to calculate the maximum number of guests that can safely be accommodated.</p>	<p>All premises.</p>	<p>£0 where layout not required.</p> <p>£22 one off cost where layout required.</p>

<sup>88</sup> Assuming the host or operator took two hours to do this themselves. For cost of time for applicants, see footnote 87.

Mandatory condition	Cost estimate	Annualised cost range	Currently a legal requirement on:	New legal requirement on:	Additional cost range
<p><b>12. Information to be displayed</b></p> <p>The holder of the licence must make certain information available within the premises in a place where it is accessible to all guests, including licence conditions; fire, gas and electrical safety information; and details of how to summon the assistance of emergency services.</p>	<p>Estimate <b>£22 one-off</b><sup>89</sup> for time, copying and a folder.</p> <p>These are documents and information the host should have to hand. There is a one off-cost in making copies of the documents and putting them in a folder or otherwise making them available to view at the property.</p>	<p>One-off.</p>	<p>No premises. Previously: best practice.</p>	<p>All premises.</p>	<p>£22 one-off.</p>

<sup>89</sup> Estimating one hour's work and £5 for materials. For cost of time for applicants, see footnote 87.

Mandatory condition	Cost estimate	Annualised cost range	Currently a legal requirement on:	New legal requirement on:	Additional cost range
<p><b>13. Planning permission</b></p> <p>Where the premises is in a control area, the holder of the licence must have made a planning application or have planning permission already.</p>	<p>Estimate <b>£520-1,000 one-off</b> where planning permission is now required but was not before. Planning costs are discussed further in <b>Annex C1</b>.</p>	<p>One-off cost.</p>	<p>Some houses. Previously variable by area. Even within control areas, planning permission may have been required before designation (depending on the local authority's planning policies).</p>	<p>Secondary letting of dwellinghouses in a control area.</p>	<p>£0 for home sharing and home letting and unconventional accommodation</p> <p>Up to £1,000 for some secondary letting of dwellinghouses in a control area.</p>

Mandatory condition	Cost estimate	Annualised cost range	Currently a legal requirement on:	New legal requirement on:	Additional cost range
<p><b>14. Listings</b></p> <p>The holder of the licence must ensure that any listing or advert includes the licence number and a valid Energy Performance Certificate (EPC) rating (where this is required by building standards legislation). They must also ensure that any listing or advert is consistent with the terms of the short-term let licence (e.g. the maximum occupancy condition).</p>	<p>There is no additional cost beyond the fee already paid to obtaining the licence number (which will be on the certificate). The licence number and the EPC rating will take up additional characters in any advert charged by character count (e.g. printed media).</p> <p>Estimate <b>£20 annually</b><sup>90</sup> for longer print media adverts, where these are used.</p>	<p>£20</p>	<p>No premises.</p>	<p>All premises.</p>	<p>£20</p>

<sup>90</sup> Ballpark estimate, depends on detailed circumstances.

Mandatory condition	Cost estimate	Annualised cost range	Currently a legal requirement on:	New legal requirement on:	Additional cost range
<p><b>15. Insurance</b></p> <p>The holder of the licence must, for the duration of the licence have valid buildings insurance, and valid public liability insurance for the duration of each short-term let agreement.</p>	<p>Estimate: <b>£200 to £1000 annually</b> for appropriate insurance cover.</p> <p>In some cases, the platform or letting agency will cover the public liability insurance.</p>	<p>£200 to £1000</p>	<p>No premises.</p> <p>However, buildings insurance is a contractual requirement from lenders for those with mortgages and normally taken out by owners. Public liability insurance is not a legal requirement but best practice.</p>	<p>All premises.</p>	<p>£0 for premises with insurance already.</p> <p>£1,000 for larger buildings with no insurance.</p>

Mandatory conditions at paragraphs 16 and 17 of schedule 3 set requirements around the payment of fees (paragraph 16) and an obligation not to provide false or misleading information (paragraph 17). These do not impose any additional costs or effort on the host.

## Annex C1: Mandatory conditions: planning

### Planning permission for change of use

A planning consent for a change of use might be expected to cost the applicant in the region of **£630 to £1000**. This assumes:

- the application relates solely to change of use (without any physical alteration to the appearance of the building); and
- the application does not raise unusual issues.

The Scottish Government's estimate of costs breaks down as follows:

The planning application fee (set nationally)	£401
Search of title deeds and location plan of the property through Registers of Scotland (including VAT)	£36
Completing the change of use application through the Planning Portal by the applicant (2.5 hours) <sup>91</sup>	£42
<b>OR</b>	<b>OR</b>
Completing the change of use application through the Planning Portal by a professional (based on 2-3 hours work)	£300 - £350
Advertisement costs	£150 - £200

A straightforward change of use application would generally be capable of being prepared by the applicant and should not require significant professional advice or input.

There may be some costs if the application has to be advertised in the local press. Not all applications require a press advertisement. On receipt of an application, the planning authority is required to send written notification to all neighbouring properties within 20 metres and it is only if this cannot be done (i.e. there is no postal address for the neighbouring land to which the written notification can be delivered) that a press advert would be required. The costs of written notification are included in the application fee, the costs of press advertising are the actual cost of inserting the advertisement in the newspaper. Advert costs are not part of the application fee and would be invoiced for separately by the planning authority as and when required.

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<sup>91</sup> Assuming 2.5 hours work at £17 per hour (see footnote 87).

The actual costs for an individual advertisement would vary considerably. Where the advertisement was for a single planning application they could be higher. However, if the advertisement covers applications for several properties (not necessarily just short-term let applications), the cost of the advertisement would be split between the various applicants accordingly. An advert may be more likely to be required in a rural area where the surrounding land is less likely to have a postal address.

Architects drawings and plans of proposed work would not generally be required for a change of use, so the costs of such work are not listed.

In many cases, under current planning legislation, a change of use from a dwellinghouse to a short-term let would be a material change of use requiring a planning application. It is for the relevant planning authority to consider on a case-by-case basis whether or not a planning application is required. This will remain the position outside control areas. Within control areas, only a minority of properties would require a planning application that did not do so before. For many properties within a control area, the planning costs are not therefore a direct consequence of the designation of the area as a short-term let control area.

### **Application for a certificate of lawfulness of use or development (CLUD)**

Application for a CLUD might be expected to cost the applicant in the region of **£520 to £900**. This assumes:

- the application relies on demonstrating more than 10 years of prior continuous use as a short-term let; and
- the application does not raise unusual issues.

The cost breaks down as follows:

The application fee (set nationally) <sup>92</sup>	£401
Search of title deeds and location plan of the property through Registers of Scotland (including VAT)	£36
Completing the change of use application through the Planning Portal by the applicant (2.5 hours)	£42
<b>OR</b>	<b>OR</b>
Completing the change of use application through the Planning Portal by a professional	£300 - £350

<sup>92</sup> Note that it is possible to apply for a CLUD for a proposed change of use with a lower application fee. An application for a CLUD for a proposed use would be on the basis that there would be no material change of use so is not relevant in a control area.

Gathering evidence to support the application (2.5 hours)	£42
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The information that would be required to be submitted in support of a CLUD application is different to that required for a planning application. In applying for a CLUD, the applicant is submitting evidence that the use does not require a planning application. The question to be considered is whether that proof is sufficient to justify a CLUD. Such evidence would generally take the form of receipts for guests staying at the accommodation, advertising etc.

A CLUD application does not have the same notification requirements as a planning application so there is no potential for advertising costs.

In terms of preparing the evidence and the application itself, there is potentially more requirement for the applicant to spend time gathering information from their records and corroborating from other sources.



## Annex C2: ASSC survey on mandatory conditions

The ASSC conducted a snap survey over 22 hours, closing at 5.00 pm on 8 November 2021. The results have been provided to the Scottish Government but not checked or verified by the Scottish Government.

The ASSC reported that their survey generated 336 responses from businesses in 26 out of 32 local authorities. Of these, 53% were from members of the ASSC and 47% responses were from non-members.

Respondents indicated that their business was based in the following local authority areas:

Local Authority	Number of Respondents
Aberdeen City	0
Aberdeenshire	7
Angus	7
Argyll & Bute	40
Clackmannanshire	0
Dumfries & Galloway	18
Dundee City	1
East Ayrshire	2
East Dunbartonshire	0
East Lothian	3
East Renfrewshire	1
Edinburgh City	26
Eilean Siar	9
Falkirk	1
Fife	14
Glasgow City	5
Highland – Isle of Skye / Lochalsh	37

Local Authority	Number of Respondents
Highland – Other	68
Inverclyde	0
Midlothian	0
Moray	13
North Ayrshire	23
North Lanarkshire	1
Orkney	8
Perth & Kinross	23
Renfrewshire	0
Scottish Borders	12
Shetland	5
South Ayrshire	4
South Lanarkshire	2
Stirling	3
West Dunbartonshire	1
West Lothian	2

\* Some respondents have properties across a range of local authority areas.

Respondents classified the location of the property or properties as follows:

Classification	Number of respondents	Percentage
Urban	48	14.3%
Suburban	15	4.5%
Semi-Rural	66	19.6%
Rural	140	41.7%
On an Island	65	19.4%
Pan Scotland	2	0.6%

The vast majority of respondents identified that they came from rural areas / islands (81%).

Respondents declared their approximate average annual turnover as follows:

Banding	Number of respondents	Percentage
less than £5k	7	2.1%
£5 - 10k	34	10.1%
10-20k	102	30.4%
20-30k	63	18.8%
30-50k	46	13.7%
Over 50k	84	25.0%

Respondents were asked to estimate the approximate annual cost for a range of measures, including the mandatory conditions and other costs (PPL PRS Music Licence, MPLC Audiovisual Licence and Food Safety Hygiene). The ASSC averaged out the costs across the number of respondents for each category and arrives at a figure of **£3,000 per annum** as an average cost across those categories:

Measure	Responses	Average Cost
Fire Safety: Hardware	235	£194
Fire Safety: Maintenance	197	£194
Carbon Monoxide Alarm	197	£91
Gas Safety Certificate	139	£136
Electrical Installation Condition Report (EICR)	183	£257
Portable Appliance Testing (PAT)	228	£189
Legionella Risk Assessment	93	£75
Energy Performance Certificate (EPC-12)	124	£274
Private Water Supply	122	£407
PPL PRS Music Licence	13	£42
MPLC Audiovisual Licence	21	£17

Food Safety Hygiene	30	£26
Holiday Let Buildings & Public Liability Insurance	298	£1,067
<b>TOTAL AVERAGE COST</b>		<b>£2,969</b>

There are a few factors that might skew this result: firstly, hosts and operators with higher costs may be more likely to respond to such a survey; the respondents are weighted towards rural operators, who may have higher costs; not every respondent incurs every cost (e.g. not all premises have gas) but all the costs are summed to make the total; and some respondents may have included one-off costs, or costs incurred less frequently, as annual costs.

Respondents identified the additional costs of business (over and above those listed in **Annex C**), including:

- Non-Domestic Rates
- Water supply (approximately £100 per month for a 5 bedroom self-catering house)
- Waste removal (approximately £500 per annum)
- Chimney sweeping
- First aid kit (and defibrillator)
- TV Licence (£154 per annum)
- GDPR ICO registration
- Marketing.

Respondents also highlighted extra cleaning costs associated with COVID-19 (length of clean and specialist cleaning supplies) and rising business costs from utilities, suppliers and insurance.

## Annex D: Airbnb: the steps to comply

During the 2020 consultation, [Airbnb published a table setting out the steps that hosts would need to take to comply](#)<sup>93</sup>. This table sets out the steps outlined by Airbnb and the Scottish Government's comments based on the Licensing Order:

REF	AIRBNB STEPS	SG COMMENTS
1.	Find out if your property falls within a control area	<p>The requirement to determine whether you need planning permission is not new. The only new element is that planning permission is always required for secondary letting of a dwellinghouse in a control area. If anything, being in a control area makes the position clearer.</p> <p>Local authorities wishing to establish a control area will be required to consult on proposals for establishing a control area (or areas) and thereafter will publicise it.</p>
2.	If it is, and you're not renting out a room in your primary home, you must apply for 'change of use' planning permission. If it's not, you may still require planning permission if the planning authority thinks your short term let amounts to "a material change of use"	
3.	Create an account with ePlanning Scotland	<p>Steps 3 to 7 are not new. The only new requirement would be that a planning application would always require to be made in a control area.</p> <p>The process for applying for planning permission is costed at <b>Annex C1</b>.</p>
4.	<p>Create a planning proposal including:</p> <ul style="list-style-type: none"> <li>• a description of the change</li> <li>• your name and address</li> <li>• a postal address</li> <li>• a certificate of ownership</li> <li>• a plan which clearly identifies the location of the application site</li> <li>• any other plans or drawings</li> </ul>	<p>ePlanning is a straightforward process which allows an individual to complete and submit planning applications from home.</p>

<sup>93</sup> <https://news.airbnb.com/wp-content/uploads/sites/4/2020/10/ScotlandShortTermLetsProposal1310.pdf>

5.	Pay the application fee (approx. £400)	The £401 fee can typically be paid online using a debit / credit card or by telephone.
6.	Wait while the planning authority publishes details of your application and notifies with anyone within 20 metres of your property. Consider how to respond to any objections. Wait for the planning authority to take a decision on the application (usually around 2 months)	Action is only required if the local authority requests more information in order to verify the application, or if objections are received and the applicant wishes to make representations concerning the objections.
7.	If it is approved, proceed; if not, you can appeal	
8.	Now prepare to apply for a licence	
9.	Check whether your application falls under a 'grace period' or whether you must cease operating until you have a licence	<p>This is straightforward; we have simplified it after the 2020 consultation. There is one set of dates for the whole of Scotland.</p> <p>All existing hosts, including those who get started on or before 1 October 2022, will have until 1 April 2023 to apply for a licence.</p> <p>New hosts starting after 1 October 2022 will not be able to take bookings or provide accommodation until they have a licence.</p>
10.	Select whether you need to apply for a licence which can cover both home sharing and home letting (i.e. your home is being used) or whether you need a licence for a secondary letting	This is straightforward. Does the application relate to the host or operator's own home where they normally live?
11.	Check you can comply with mandatory licence conditions ...	The list of mandatory conditions primarily relate to a set of standards which will help to protect the safety of guests and neighbours in short-

		<p>term lets across Scotland. Many hosts will already be following these standards as a matter of compliance with existing law or best practice. These are reviewed at <b>Annex C</b> of this BRIA.</p>
12.	<p>Research your local authority's 'menu' of additional licence conditions and check you comply:</p> <ul style="list-style-type: none"> <li>• hosts required to meet all guests at the property on check-in</li> <li>• limits to alternations to the layout of the property without approval – adding beds etc</li> <li>• limits to occupancy and number of beds</li> <li>• install adequate facilities for the storage and disposal of refuse and recycling</li> <li>• replace wood floors with vinyl or carpet</li> <li>• install door closers to prevent doors being slammed</li> <li>• install a noise monitoring kit to log noise, and notify the host or hosting intermediary of any noise above a certain specified limit</li> <li>• communicate “house rules” on arrival</li> <li>• check in and departure curfews – 11pm and 7am</li> <li>• supply data on the number of nights your accommodation was let last year, the number of lettings you had last year and the total number of nights available to let last year</li> </ul>	<p>Local authorities have the power to introduce additional licence conditions to respond to local challenges and concerns, or to address issues specific to individual properties. Discretionary conditions will only be introduced where there is a reason. Local authorities will not want to unduly curtail the economic benefits of short-term lets.</p> <p>We expect that, in many cases, local authorities will only require the mandatory conditions.</p> <p>Where local authorities apply further standard conditions to every licence, in addition to the mandatory conditions, they must publish these on their website.</p> <p>Most of the examples cited opposite would be applied on a case-by-case basis where there were known concerns or they could reasonably be anticipated.</p>
13.	<p>Adjust your property to meet these requirements</p>	<p>Most hosts already complying with existing legislation and good practice</p>

		will not need to do very much at all to get their property ready.
14.	Check whether your application falls under a 'grace period' or whether you must cease operating until you have a licence	<i>This is a duplicate of step 9.</i>
15.	<p>Supply information:</p> <ul style="list-style-type: none"> <li>• address</li> <li>• property owner</li> <li>• number of bedrooms (and floorplan) HMO licence number (if applicable) host contact details</li> <li>• relevant criminal convictions – disqualification from being a private landlord, having had short-term lets or HMO licence revoked</li> <li>• have you had an application for a short-term lets licence turned down by any local authority?</li> <li>• have you provided false or misleading information in an application for a short-term lets licence, HMO licence or application to be a private landlord?</li> <li>• other short-term let licences you own</li> <li>• proposed maximum occupancy</li> <li>• what type of short-term let licence you are applying for</li> <li>• information about any intermediary (Airbnb, Booking.com etc)</li> <li>• out of hours contact details</li> <li>• access arrangements for any local authority visit</li> </ul>	Most of this information is very straightforward and many hosts will already have this information to hand.

	<ul style="list-style-type: none"> <li>• have you met mandatory licence conditions?</li> <li>• have you met additional conditions?</li> <li>• and which neighbours have you notified</li> </ul>	
<b>16.</b>	Pay your non-refundable application fee (TBD, but will depend on property size, number of rooms and occupants)	Application fees will be set by local authorities. This is discussed in detail in the main body of the BRIA. The process of determining and paying the appropriate fee will be straightforward.
<b>17.</b>	Notify all neighbours within a 20-metre distance of the property, including all residents on a tenement stair and neighbouring tenement stairs	<p><i>Note: the process for publicity has changed in the Licensing Order.</i></p> <p>The host or operator must put up a site notice using the template which will be provided as part of the application process.</p>
<b>18.</b>	Await potential objection based on safety, noise, previous complaints, the availability of residential housing, the impact of your letting on the character of the neighbourhood, and the suitability of the building	<p>The opportunity for neighbours to comment has been welcomed by local communities. There is time before the licensing scheme opens for hosts to build relationships with residents and neighbours, as we heard in consultation that the best of them already do.</p> <p><i>Remember: existing hosts can continue operating whilst their application is processed.</i></p>
<b>19.</b>	Await potential visit from local authorities to assess	<p>Not all premises should be visited. However, targeted visits are an important part of the process to ensure safety and to drive up standards.</p> <p><i>Remember: existing hosts can continue operating whilst their application is processed.</i></p>



20.	Appear before Council licensing committee to justify your application or instruct lawyer to appear on your behalf	Our fee model assumes that 3% of licence applications go before a licensing committee in the low cost scenario, and 6% in the high cost scenario. We would expect a much smaller proportion of home sharing and home letting applications to go to committee.
21.	Set up direct debit to pay monthly or yearly 'monitoring' subscription fee to the council (TBD)	Some hosts have welcomed the opportunity to pay monthly if that is available. Most local authorities have indicated that they will collect fees at application and renewal.
22.	Get added to the register of hosts and licence accommodation	No action for the applicant. Local authorities will do this.
23.	Always be prepared for an inspection of your property – routine (with warning) or unannounced (where your premises will be entered forcibly if necessary)	Properties should be selected for inspection on a risk-based and intelligence-led approach. The power to carry out inspections is an important part of the process to ensure safety and to drive up standards. Notice would normally be given. Inspections post-application are likely to focus on higher risk accommodation or places attracting complaints.
24.	If you don't comply, or the inspection is in response to a complaint, you will be charged for the cost of inspection (TBD)	Local authorities will have a reason for wanting to carry out an inspection which would be stated in any notice. (A valid reason would be as part of a schedule of visiting every property in the area or because a long time had elapsed since the last visit.)  The host would only be charged if the inspection found the complaint was valid or licence conditions had not been complied with.
25.	Renew your licence after three years	This is in keeping with existing licensing functions local authorities

		<p>exercise. Licences can be granted for up to 3 years initially but the Licensing Order allows licences to be granted for longer periods on renewal.</p> <p>For competent hosts (who have been complying with conditions of their licence) we expect the renewal process will be relatively straightforward.</p>
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## Annex E: Principal concerns of the ASSC

In their consultation response, the ASSC included the following concerns about the impact on self-catering businesses at sections 4 and 5:

### 4. Why businesses will close

There are many obvious reasons why owners will close businesses under the proposed scheme:

4.1. **Uncertainty over licence being granted:** councils will have very subjective grounds to refuse licence – and could grant a licence then refuse renewal. Appeals against refusal would involve substantial legal costs and more uncertainty.

4.2. **Owners will have to make advance bookings made during the licence application period conditional on licence being granted** (which will put off guests) or risk being sued if they don't and licence not granted – and this will be repeated every 3 years when licence must be renewed.

4.3. **Increased bureaucracy and hassle:** disproportionately affecting small business owners who are the backbone of Scotland's tourist economy.

4.4. **Investment uncertainty:** owners will be reluctant to invest in major repairs, replacements and improvements as they won't know whether licence will be granted or renewed.

4.5. **Uncertainty as to ability to access and afford qualified contractors** to ensure compliance.

4.6. **Uncertainty as to impact on mortgage and insurance liabilities.**

4.7. **Unknown and open-ended licensing costs**, realistically estimated as £1k plus – councils must recover their costs from the scheme and operators will face additionally paying the council for inspections.

### 5. The consequences

5.1. Introducing licensing will result in significant damage to Scotland's tourist industry, including the businesses that provide services to property owners, and, in turn, to local economies. The irony is that the Scottish Government are pushing ahead with this when we are trying to recover from the economic damage of Covid-19 and when staycations are being encouraged for sustainability and environmental reasons.

5.2. Given the competition to maintain standards, holiday let owners often spend money more frequently on additional property maintenance than they would on their own property. **Their guests spend money in local food shops, cafes, gift shops,**

**galleries, restaurants, tourist attractions** etc. – many of which would simply be unviable without visitor spending.

**5.3. Therefore, the impact of the regulations will not be limited to self-catering as there will be a significant negative impact to businesses in the wider supply chain.** This emphasises the value that short-term letting provides to the wider economy from the operators themselves, with negative knock-on effects on hospitality, local activity providers and local attractions. There will also be a negative impact on laundry providers and cleaning services and guests.

5.4. Overall, it is vitally important to see the regulations in a holistic context, not just as an issue for housing and local government, **but one for tourism, economy and Covid recovery.** The Scottish Government should be looking to help support small tourism businesses like self-catering as it recovers from Covid-19, rather than introducing a disproportionate licensing scheme, especially as viable, workable alternatives such as mandatory registration are available.

**6. All this could easily be avoided. Our registration proposal allows for the Scottish Government to introduce licensing, but to exclude registered accommodation.** A register could be introduced via the Development of Tourism Act 1969, delivered by Visit Scotland. Professional operators, DMOs, VisitScotland quality assurance members, as well as members of the ASSC and Scottish B&B Association could register and become exempt thus avoiding business closures and the knock-on consequences.



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ISBN: 978-1-80201-664-2 (web only)

Published by The Scottish Government, November 2021

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS967506 (11/21)

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