



Short-Term Let Licensing: Red Flags and Solutions

You have made it clear that you intend that Short-Term Let (STL) Licensing is fully live by 1/10/23 for existing, as well as, new operators. You have acknowledged that there are outstanding issues which need addressing. You asked us to highlight the red flags, the specific details which are causing challenges for the sector.

We have outlined below, as briefly as we can, 14 red flags which must be addressed in order to achieve your aim of delivering licensing, and to reset relations with the sector whilst supporting rather than damaging tourism.

Embracing our recommendations will show that you are listening to the industry; that you understand and are in touch with the needs of people across Scotland who want to do the right thing, to be socially responsible and provide safe accommodation for visitors to Scotland now and in the future. Scotland's self-catering needs to be open for business after 1/10/23.

The Scottish Government has one remaining pathway towards a more equitable, fair and effective STL regulatory landscape. **The Scottish Government must lay an SSI to amend the 1982 Act, and re-draft the guidance associated with Licensing Order 2022, in collaboration with industry and local government stakeholders.**

1. **Schedule 3.13 of the Licensing Order must be amended to provide clarity that planning is only sought where a material change of use has occurred, unless in a Planning Control Area, at which point policy 26B comes into effect, but this is not applied retrospectively.** Indeed, planning consideration should be removed entirely from the Order. Planning is already covered in existing Planning regulations, including those pertaining to Planning Control Areas. This will remove the current uncertainty as a first hurdle, which is putting people off even considering applying for a licence. Further if the Housing Minister cannot discuss planning, then surely it stands to reason that he cannot discuss housing, because housing and the use of a property is a planning consideration.
2. **Licensing concerns the safety of the activity, not the use of the property.** If the intention of the policy is not to 'manage down' the number of STLs as you reassured us this morning, this needs to be made clear publicly. This would assist you to regain the trust of the sector and alter the public perception that STL licensing is going to solve the housing crisis. Only neighbour complaints which are evidenced and demonstrable should be taken into account (as per HMO's).
3. Once mandatory conditions have been met, there should be a **presumption to grant licences**, and renewals as per HMO Licensing. This will give confidence to the sector that if they are abiding by H&S legislation, they will be granted licences to trade and give confidence to guests to book in advance.
4. Local authorities must have reviewed and published **lawful policies** based on the outcome of the Judicial Review by 30/7/23, based on your intent to have the scheme live on 1/10/23 for existing operators. Ultra vires policies must be removed (boat & bike hire, carpet, guests out of hot tubs

at a certain time etc). The Order must be amended via an SSI to ensure that the legislation is absolutely clear and not open to interpretation. Officials this morning commented that amendments to guidance had been constrained by the need to reflect the legislation itself, so to afford meaningful change, the legislation itself must be amended. Scottish Government guidance must also be clear, unambiguous and not open to interpretation. Applicants and licensing staff in local authorities must have clarity in good time, in order to be confident in making and processing applications.

5. **Provisional Licences** should be provided by licensing authorities as per the Scotland 2005 Act. This is to allow the smooth transition for the purchase of a trading business. Provisional licences should be in place until the renewal date, as per MOTs. This requires an amendment to the legislation via an SSI.
6. For new builds and renovations (cottage / house / cabin / glamping etc), a **Provisional Licence** should be issued until the required certification is available, understanding that it will be compliant with building standards regulations. This would enable an owner to start trading and take bookings and avoid completely unnecessary delays.
7. **Temporary Licences** should be provided in all licensing authority areas as a mandatory requirement. This will facilitate events such as The Open golf etc.
8. **Homeletting / Home sharing:** As long as mandatory conditions are met, people should be encouraged and supported to rent out their home whenever they need to, without barriers, to give people the ability to, for example, help themselves in a financial crisis. This will support social responsibility and we believe will alleviate some housing pressure. Planning consideration should be removed for home sharing / home letting whether in a Planning Control Area or not. This removes the uncertainty created by local authorities and their interpretations of change of use.
9. **Second Home owners:** Second home owners who are currently secondary letting and economically contributing, cannot pivot towards PRTs because they need to gain access throughout the year for their own use. Therefore, as long as mandatory conditions are met, owners should be encouraged and supported to rent out their second home whenever they need or want to, without barriers. This will support social responsibility, local communities and economies and we believe will alleviate some housing pressure when used as mid-term rentals. Planning consideration for second homes should be removed, whether in a Planning Control Area or not, as there is no material change of use. This removes the uncertainty created by local authorities and their interpretations of change of use. We believe it will prevent homes which are currently economically contributing, being closed for the majority of the year.
10. Registered landlords of properties which are normally let on a long-term basis using PRT legislation should be granted **Temporary Licences / Exemptions** for up to six weeks. The process should be fast, seamless, and low cost, given that they are already compliant with the H&S regime. As long as point 7 and 8 are met, the only type of property requiring a Temporary Licence or Exemption would be properties that are already rented via PRTs. This will ensure that there is the required elasticity to, for example, provide sufficient accommodation for the Edinburgh Festivals.
11. **Temporary accommodation/mid-term rentals.** Mid-term rentals are needed throughout Scotland to house people and workers temporarily. There needs to be a distinction that holiday lets and mid-term rentals are not the same thing. There would be clarity if the definition of a short term let is amended to lets of up to 28 days. Temporary accommodation of this nature should be considered within a separate regulatory framework.

12. **Fees** should sit within the estimates provided by the Scottish Government's BRIA and a set fee would be a means to achieve this. The costs in some LA's is disincentivising some owners from applying.
13. Clarity around the **enforcement framework** from 1/10/23 is crucial. As we said, our ASSC members want to do the right thing, but there are other bad operators who do not. The lack of data underpinning this legislation is a gift to bad operators as enforcers do not know who they are, what they are or where they are. This undermines the competence of the legislation and carries the potential of significant reputational damage.
14. Make public statement of intent to make meaningful changes to ameliorate the scheme and support Scottish businesses and private individuals.

We sincerely hope that all 14 solutions outlined in this document will be actively adopted by the Scottish Government, so that we can arrive at a proportionate and fair regulatory regime, where unintended consequences have been largely addressed and the small accommodation sector can survive, thriving into a positive future.

We would be grateful to understand how this has landed with you at your earliest convenience. The pressure on me to provide clarity for my members is becoming more overwhelming with each day that passes.

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