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## [Do I need a short-term let licence?](#_top" \t "_parent)

If you are providing anyone with residential accommodation within Moray then you might be providing short-term lets. Scottish Government have produced a tool for hosts and operators you can use to find out what kind of licence you need. You can access the tool [here](https://www.mygov.scot/short-term-let-licences). Annex A of the Scottish Government Guidance for hosts and operators provides more information about what a short-term let is and sets out questions for you to consider. You can access this part of the Guidance [here](https://www.gov.scot/publications/short-term-lets-scotland-licensing-scheme-part-1-guidance-hosts-operators-3/pages/8/).

Example – I have a short-term let accommodation which is annexed to my own home. Is this a home sharing, home letting or secondary letting licence type?

If the accommodation is capable of being let out separately to your main home, has its own entrance and guests are not sharing facilities such as cooking, toilet or washing with the main host/operator’s home, then this will be considered a secondary letting licence type.

The law defines what a short-term let is and the new licensing scheme covers a wide range of residential and commercial accommodation including:-

* Accommodation provided within the host/operators home
* Self catering properties
* Bed and breakfasts
* Guest houses
* Unconventional accommodation e.g. yurts, glamping pods
* Certain mobile homes
* Cabins
* Chalets

There are exclusions from the new scheme. You can find a list of excluded accommodation [here](https://www.legislation.gov.uk/ssi/2022/32/schedule/1/paragraph/1/made) and a list of excluded tenancies [here](https://www.legislation.gov.uk/ssi/2022/32/schedule/1/paragraph/2/made).

## Is there a fee for a short-term let licence?

Yes. A schedule of our short-term let licensing fees can be found [here](http://www.moray.gov.uk/moray_standard/page_144114.html). There are no exemptions or reductions in respect of short-term lets owned/operated or hired by Charities.

**Please note**, the above schedule sets out the fee for a short-term let licence only. There will be separate fees for other requirements, for example, in relation to the Council’s Planning Services, Building Standards Service and private water supplies.

## How many short-term let licences do I need?

A separate licence is required in respect of each short-term let accommodation, whether or not all they are all in the Moray area. For example, if you have three short-term let accommodations in Moray, you will require three separate short-term let licences unless any of the accommodations do not meet the legal definition of a short-term let or is otherwise exempt.

You do not need a separate licence for short-term let accommodation on the same premises, for example if you are letting out two rooms in your home that would be covered by one licence. One licence may also cover unconventional accommodation where there is more than one separately bookable accommodation on the site for example, 15 yurts within the same field will require only one short-term let licence.

If all accommodation units (for example chalets, lodges, cabins) are on the same site, under the one title deed, have the same postal address and are used for the same type of short-term letting e.g. secondary letting, then one licence can cover multiple accommodations. If not, multiple licences will be required.

Example – two self catering cottages within a farm. If the two cottages have separate postal addresses, or are listed on Registers of Scotland as two separate sites then two individual licences will be required.

Example – Guest house / B&B / Home Sharing type arrangement with a separately bookable annex (secondary letting licence type) within the same site. Although located on a single site, the accommodation would require two different licence types (hone sharing licence and secondary letting licence) therefore two separate licences be would required; (1) Home Sharing for the Guest House / B&B / Home Sharing type arrangement and (2) Secondary letting licence for the annex.

If you have short-term let accommodation situated in any other local authority area as well as in Moray, you will need to apply for a short-term let licence in each local authority area where your accommodation is situated.

## When do I need a licence by?

The law distinguishes between “new hosts/operators” and “existing hosts/operators”.

**New hosts and operators** need to have a licence for short-term let. This means, if you did not use your accommodation to provide short-term lets before 1 October 2022, you can advertise but not take bookings or receive guests until you have obtained a licence from the Council.

**Existing hosts/operators (i.e. those using accommodation to provide short-term lets before 1 October 2022)** have until 1 October 2023 to apply for a licence. During this period you can operate without a licence by continuing to take bookings and receive guests unless your licence application has been determined and refused. This time extension only applies to accommodation let out before 1 October 2022. If an existing host/operator wishes to let out a new short-term let accommodation, a short-term let licence is required in the same way as a new host/operator for the accommodation.

After 1 October 2023, existing hosts/operators can only continue to operate if they have submitted an application for a short-term let licence on or before 1 October 2023 that has not yet been determined or granted by the Council.

After 1 January 2025, all hosts/operators will need to have a licence before taking bookings or receiving guests. Operating without a licence on or after 1 January 2025 is unlawful in all cases.

## Who decides whether or not I can have a licence in Moray?

The Council is the licensing authority for the Moray area and it is the Council’s Licensing Committee that deals with licensing matters. Where there is an objection or representation by any person or consultee to your application then your application will be decided by the Licensing Committee. Where there are no objections/representations made, then the Council’s Solicitors will grant the licence under delegated authority. Every application is considered on its own facts and merits.

## Can I take bookings and receive guests if I don’t have a licence?

New hosts/operators can advertise but cannot take bookings or receive guests until a licence is obtained from the Council. This also applies to existing hosts/operators who wish to let out a new short-term let accommodation (i.e. accommodation not let out on or before 1 October 2022).

Existing hosts/operators who used their accommodation for short-term lets before 1 October 2022 have until 1 October 2023 to apply for a licence. During this period existing hosts/operators can continue to take bookings and receive guests unless their licence application has been determined and refused.

After 1 October 2023, existing hosts/operators can only continue to take bookings and receive guests if they have submitted an application for a short-term let licence on or before 1 October 2023 that has not yet been determined or granted by us.

After 1 January 2025, all hosts/operators will need to have a licence before taking bookings or receiving guests. Operating without a licence on or after 1 January 2025 is unlawful in all cases.

## How long will it take for me to get a licence?

By law, we have the period of 12 months to determine applications (beginning with the date a valid application was made) submitted by existing hosts/operators who make an application before 1 October 2023.

In all other cases, by law, we have the period of 9 months from the date a valid application is made to consider and ultimately determine each application for short-term lets.

Although by law we are allowed the period of 9 or 12 months to consider your application, we aim to deal with all applications as soon as possible.

## Do you need to be a registered landlord to apply for a short-term let licence?

No. There is no legal requirement for you to be a registered landlord in order to apply for a short-term let licence.

We will determine whether an applicant is a fit and proper person to be the holder of a licence for short-term lets in Moray. In accordance with our, [Statement of Licensing Policy for Short-term Lets](http://www.moray.gov.uk/downloads/file144259.docx), we will take account of any disqualification from being a private landlord or having had a letting agent or property factor registration revoked now or in the past.

## What do I do if I have a private water supply?

If the premises has a water supply that is not supplied by Scottish Water (i.e. a private water supply) then you need to comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.

You must check your responsibilities and any action you may need to take under the Water Intended for Human Consumption (Private Supplies)(Scotland) Regulations 2017 e.g. obtaining a satisfactory water sample, **before** you submit an application for a short-term let.

You can find more information and guidance from the Council’s Environmental Health Service, as well as information about the separate charges for sampling water supplies here: <http://www.moray.gov.uk/moray_standard/page_55031.html>.

The Council’s Licensing Service will be notified by the Council’s Environmental Health Service if the requirements of the Water Intended for Human Consumption (Private Supplies)(Scotland) Regulations 2017 have not been met by you.

Please note, your ability to obtain or keep a short-term let licence may be affected by any failure to follow and comply with the Water Intended for Human Consumption (Private Supplies)(Scotland) Regulations 2017.

## Do I need planning permission?

If you are letting out either all or part of your premises for short-term let, you may be required to apply for a “change of use” planning permission. Planning permission, or a certificate of lawfulness (existing or proposed) confirming you do not need planning permission can take some time and will involve a separate fee. You must check with the Council’s Planning Service whether you need planning permission, or a certificate of lawfulness (existing or proposed) before you apply for a short-term let licence. You can do this [here](http://www.moray.gov.uk/moray_standard/page_41734.html). You should contact the Council’s Planning Service directly to find out what action, if any, you may need to take in your particular circumstances.

If you do need planning permission or a certificate of lawfulness for either existing or proposed development, you should apply for this this **before** you make an application for a short-term let licence.

## What can I do if my application is refused?

Within 10 days of the decision you can request that we give you a Statement of Reasons for the decision. Within 28 days of the date of the decision you have the right to appeal our decision by lodging a summary application with the relevant Sherriff Court. Any appeal must be lodged within 28 days of the date of our decision.

If an appeal of our decision is upheld, the Sheriff may ask us to reconsider our decision or change our decision.

We cannot give you guidance on making an appeal. If you want to lodge an appeal, you should seek your own independent legal advice about this and/or contact the Sheriff Clerk at the relevant Sheriff Court.

## What happens if my application is determined under delegated powers?

If your application is determined under delegated powers by the Head of Governance, Strategy and Performance Service, you will be notified in writing and issued your short-term let licence.

## What happens if my application is to be heard by the Licensing Committee?

If a competent objection or adverse representation is submitted in relation to your application, the application will be subject to a hearing at a meeting of the Council’s Licensing Committee.

You will be notified in writing and given at least 14 days’ notice of any scheduled hearing date. You (and/or a representative on your behalf) will be given the opportunity to respond to any objection or representation and state why your application should be granted.

The person(s) submitting any objection/representation will also be invited to attend the meeting and speak to their objection/representation.

The Licensing Committee will be able to ask questions of all parties and will decide whether to grant or refuse the application.

All applications are heard in public unless required to be taken privately on the grounds of disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.

## What happens if I don’t have all the information needed for my application?

Your application will not be processed until you have provided all the necessary information for us to consider it. We recommend you check what supporting documentation you will need and ensure you have this before submitting your application to us. If you cannot obtain the information needed for your application, please contact a member of the licensing team by email at [licensing@moray.gov.uk](mailto:licensing@moray.gov.uk) to discuss your particular problem or alternative information you can provide in the circumstances.

## What convictions do I have to disclose?

The guidance notes that are on our website give detailed information about declaring convictions which you can access [here](http://www.moray.gov.uk/downloads/file144257.docx). Unspent convictions must always be disclosed. If you think a conviction is spent you should seek independent legal advice.

## What happens if I haven’t heard from you within legal timescale?

If the Council fails to determine your application within the applicable statutory timescales, the short-term let licence will be deemed to have been granted unless we are given an extension by the Court. If your licence has been deemed to have been granted it is valid for the period of one year. The mandatory conditions that apply to all short-term lets would also apply to the deemed grant of a licence.

## Are there conditions attached to a licence?

Yes. There are standard mandatory conditions attached to all short-term let licences. A copy of these conditions is available [here](https://www.legislation.gov.uk/ssi/2022/32/schedule/3/made) and with the letter issuing your licence.

## Are there any short-term let control areas in Moray?

On 1 March 2022, the Town and Country Planning (Short-term Let Control Areas)(Scotland) Amendment Regulations 2022 came into force. This means, you must have made an application for planning permission if your premises is in a control area, you are using it for secondary letting and it is a dwellinghouse. You can find the latest information on whether Moray has any designated short-term let control areas on our Planning Services area of [www.moray.gov.uk](http://www.moray.gov.uk) [here](http://www.moray.gov.uk/moray_standard/page_41734.html).

# Where do I go if I don’t agree or have doubts?

You should **SEE A SOLICITOR** if you don’t agree with the Council, or if you are in any doubt about the new licensing law. The law requiring short-term let licences is here to stay and is a legal requirement. It is not unlawful. Do not believe all that you read in commentary. There is a lot of misinformation being reported about short-term lets and short-term let requirements under the new licensing scheme. ONLY solicitors are qualified to interpret law and then advise you on that law and the legal requirements.

# Do I need to submit a floor/layout plan with my application?

Yes. You must include a detailed floor/layout plan with your application for a short-term let licence. If you have multiple accommodation units on the one site and want to apply for one licence only, we may also ask you to provide a site plan. There is no requirement for a floor/layout/site plan to be drawn by an architect or other professional you can draw it yourself. The Council’s application guidance notes ([here](http://www.moray.gov.uk/downloads/file144597.docx)) tell you what should be included on the floor/layout plan.

The Council has minimised costs by adopting a proportionate, risk based approach in application checks and verification. The need for inspection of the premises may be minimised if the application supporting documents, including the floor/layout/site plan, are sufficient to (1) verify compliance with the mandatory licence conditions and (2) to enable the Council to determine the maximum occupancy number.