



Frequently Asked Questions

Short-Term Let Licensing

Please read this first

Effective Date: 11 January 2023

1. Who is this Guidance for?

This guidance is for anyone planning to apply for a new Licence and current licence holders. It summarises the rules and explains how we provide Licensing services. We believe that the information here is correct on the 'Effective Date' shown above.

2. What do we mean by 'licence' ?

By 'licence' we mean the Licence which the Council can grant under the Civic Government (Scotland) Act 1982, as modified by the Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022 No. 32 ("the STL Order").

We do not mean the 'confirmation' issued to Hosts who request it under the NAC "Existing Hosts Confirmation Scheme":

- The 'confirmation' is not a 'licence',
- The 'request' for Confirmation is not a 'licence application' and
- Hosts who have it must still apply for a Licence no later than **Saturday 30 September 2023**.

See FAQs below:

"I have a 'Confirmation', so do I still need to apply for a Licence?"

"What is Evidence of 'Existing Host' status?"

3. Other sources of guidance

To make these FAQs useful to as many people as possible, the advice is general and may not cover your exact situation. If the answer you want is not here, or you want more specific legal advice, you should take independent legal advice. The information given here is believed to be an accurate representation of the legislation and Scottish Government guidance, but the Council do not accept liability to anyone relying on it. The Council's Licensing Staff are not able to give you advice about other matters, such as electrical or gas safety. There may be useful information on Scottish Government websites, such as

<https://www.gov.scot/publications/short-term-lets>

The Scottish Government Guidance is in two parts and Part 1 is "Guidance for Hosts and Operators". This is at:

<https://www.gov.scot/publications/short-term-lets-scotland-licensing-scheme-part-1-guidance-hosts-operators-2>

4. Abbreviations

In this document:

"STL" means "Short-Term Let"

"STL Order" means the licensing legislation, and

"NAC" means North Ayrshire Council

"SFRS" means the Scottish Fire and Rescue Service

See FAQ 31: "Where can I find more information?"

Where this document refers to "Parts" or "Annexes", it is meaning Parts and Annexes in the NAC Licensing Policy Statement, which sets out NAC policies on many matters. This was adopted by the Licensing Committee on 26 September 2022 after public consultation and is on our website:

<https://www.north-ayrshire.gov.uk/Document-library/stl-policy.pdf>

We refer to this as the "LPS". To make these FAQs easier to follow we have copied some of the LPS Annexes at the end of this document:

Annex A - Definitions

Annex C - Mandatory Licence Conditions

Annex L - What documents do I have to give Guests?

Annex A contains definitions of other terms, and these are shown underlined.

5. Links

This document has internal links so that you can jump to a particular section just by clicking on the section's title in the "Navigation Pane" in Microsoft WORD. If the Navigation Pane is not already open, click on 'View' at the top of the screen and then click the checkbox for "Navigation Pane".

Questions

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1. What should I do?

We suggest this:

(a) check that you do NEED a STL Licence

There are exemptions, but most Hosts will need Licences. The exemptions and preliminary rules are set out below at FAQ 2 – 10.

(b) decide WHEN to apply

You should also decide when you need to apply (FAQ 11 "When do I need to apply?"). If you qualify as an 'Existing Host' in relation to the **particular** Accommodation, it will be quicker for you to make a request (free-of-charge) to NAC to confirm your 'Existing Host' status under NAC's "Existing Hosts Confirmation Scheme".

You don't have to request Confirmation
NAC set up the scheme to give Existing Hosts evidence of their status if they needed to prove it to Guests or Listing Agencies.
We did this because some Hosts asked for it saying, in effect, "We've never needed a Licence before, so we don't have any proof that we can still operate".

You will still have to apply for a Licence by Saturday 30 September 2023 (the date originally set was 31 March 2023 but this was changed by the Scottish Government on 7 December 2022, so 'Existing Hosts' were given an extra 6 months to apply for Licences).

If you don't apply till Saturday 30 September 2023:

- you will not have to pay us a fee now (FAQ 12 – "How much is the fee?") and
- you will not need to prepare plans and the other documentation.

BUT

We recommend that when you do apply, you apply by the end of August 2023, and do not leave it until the last available day.

We say this because it often happens (with any sort of licence application: this is not just about STLs), that we have to reject an application initially because it lacks some information or document which is essential. By the time that the applicant re-sends the application, with the missing information or document, the 'last day' might have passed.

This would be a problem for any Host, but it would be a particular problem for an 'Existing Host', because he/she would have lost the benefit of the special rules which allow a STL to operate after 30 September 2023 without a Licence ("Transitional Provisions" – STL Order, Article 7).

This may mean:

- that the Host will have to cancel Guest bookings because there will be no guarantee that the Licence will be granted in time for the booking - because of the high number of applications we have to process in a short time, it is possible that we will not make a decision on the application until the end of the maximum period set by law;
- the Host should check with his/her insurer, as it's likely that the insurance policy will have a condition that the Host should actually have a Licence; this is a private matter and the Council are not involved;

Also, it might be cheaper for you to apply by 31 March 2023. This is because the Council's Financial Year is 1 April to 31 March, and every year the Council reviews the charges for all functions of the Council, including licence fees. We are required by Law to set our fees so as to cover our costs, and it usually happens that these charges are increased in line with Consumer Price Index published by the Government's Office of National Statistics. So you might find that the licence fee you pay after 31 March 2023 is higher than it was up to that date – the 2022-2023 fees are shown below – FAQ 12 "How much is the fee?", part (d).

(c) prepare to apply

If you do want to apply for a Licence, read FAQ 16 ("What should I do BEFORE I apply for a Licence?").

(d) when you apply

At the same time as you send the Application Form to the Council with the supporting documents and the fee:

- (a) you will have display a "Site Notice" at or near the Premises, to inform the public of your proposal (we also publicise your application on our website);
- (b) you will have to give the Council a "Site Notice Display Certificate" after it has been on public display for at least 21 days

You can get blank copies of both forms from our website. See FAQ 24. "What do I have to tell the public?".

2. What is a "Short-Term Let"?

(a) The general rule

A "Short-Term Let" means -

- the use of residential Accommodation,
- provided by a Host,
- in the course of business to a Guest,
- where the Short-Term Let is entered into for Commercial Consideration,

except

where any of the "STL Exemptions" apply (see FAQ 3 "Do I NEED a Licence at all?")

(b) Caravans and Mobile Homes

A Caravan or Mobile Home **is** "Accommodation" so it needs a STL Licence. The significance of the definition of "House" in the legislation is that, because a Caravan or Mobile Home is **not** a "House" (as defined), the "Repairing Standard" does **not** apply.

So of the two conditions which apply to STLs generally, only one applies to Caravans or Mobile Homes:

"10.—(1) The Holder of the Licence must take all reasonable steps to ensure the Premises are safe for residential use.

(2) Where the Premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the Holder of the Licence must ensure that the Premises meet the Repairing Standard."

Only Paragraph 10(1) applies to Caravans or Mobile Homes.

3. What are the "Types of Short-Term Let"?

The STL Order defines "Type of Short-Term Let" as one of the following purposes—

- (a) Secondary Letting, (for example, a self-contained 'holiday home')
- (b) Home Letting,
- (c) Home Sharing, (for example 'Bed-and-Breakfast where the Host lives in the same building as the Guests)
- (d) both Home Letting and Home Sharing.

This definition is in STL Order, Schedule 3, Paragraph 18.

This definition is important because your Licence will state one of these - (a) to (d) - and you can **only** use the Premises for that purpose. This is because one of the Mandatory Conditions of the STL Licence is:

"2. Type of licence

The Holder of the Licence may only offer the Type of Short-Term Let for which the licence has been granted." (STL Order, Schedule 3, Paragraph 2)

There are further definitions in Paragraph 18:

"Secondary Letting"

*"means a Short-Term Let consisting of the entering into of an agreement for the use of Accommodation which is **not**, or is not part of, the licence holder's only or principal home"*

"Home Letting"

*"means a Short-Term Let consisting of the entering into of an agreement for the use, while the Host is **absent**, of Accommodation which is, or is part of, the Host's only or principal home"*

"Home Sharing"

*"means a Short-Term Let consisting of the entering into of an agreement for the use, while the Host is **present**, of Accommodation which is, or is part of, the Host's only or principal home"*

Home Sharing and Home Letting concern the use of the Host's only principal home.

Secondary Letting does not relate to the use of the Host's principal home.

The application form will ask you to confirm what "Type" of STL Licence you are applying for. You must select one of the above types of the licence (a) – (d), and if you don't then we cannot grant your Application.

4. Do I NEED a Licence at all?

You do not need a Licence if any of these apply:

- (a) the Guest uses the Accommodation as their only or principal home (if they do, there might be a need for Landlord Registration with the Council under separate legislation, so the Host should check with NAC to see if Landlord Registration is needed),
- (b) the Guest is an Immediate Family Member of the Host (see FAQ 5 - "What is the 'Immediate Family Member' exemption?"),
- (c) the Guest is sharing the Accommodation with the Host for the principal purpose of advancing the Guest's education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or
- (d) the Guest is an owner or part-owner of the Accommodation,
- (e) the Accommodation is provided for the principal purpose of facilitating the provision of work or services by the Guest to the Host or to another member of the Host's household,
- (f) the Accommodation is Excluded Accommodation (see FAQ 6 - "What is 'Excluded Accommodation?'"); or
- (g) the Short-Term Let is an Excluded Tenancy (see FAQ 7 - "What are 'Excluded Tenancies?'").

The Council cannot provide legal advice on whether or not premises are excluded from requiring a STL licence. Owners should take their own independent legal advice on this.

There are NO 'Grandfather Rights'

Apart from these exclusions, you need a Licence.

There are no 'Grandfather Rights' for STLs because they have never been licensed before.

Licensing systems sometimes have 'Grandfather Rights' rules when there is a 'new' licensing system replacing an 'old' licensing system. For example:

During 2008-2009 premises selling alcohol (Public Houses, Hotels, Restaurants and Off-sales shops) applied for Licences under the new system based on the Licensing (Scotland) Act 2005. Because these premises already had Licences under the 'old' licensing system (based on the Licensing (Scotland) Act 1976), these premises often (not always) had what were often called 'grandfather rights'. This meant that – so long as they were applying under the 'new' system for much the same as they were already

licensed for under the 'old' system, they could keep trading and it was relatively straightforward to get a 'new system' Licence for them.

That cannot happen with STLs, because they have never been licensed before. Instead, Hosts who are 'Existing Hosts' in relation to particular Accommodation can operate for a while without a Licence, but they still have to apply for a Licence

no later than Saturday 30 September 2023.

5. I have a 'Confirmation', so do I still need to apply for a Licence?

Yes, you need to apply for a Licence by Saturday 30 September 2023.

The Confirmation which the Council issued you under the NAC "Existing Hosts Confirmation Scheme" is not a Licence and you will still have to apply to the Council for a Licence by Saturday 30 September 2023 (the date originally set was 31 March 2023 but this was changed by the Scottish Government on 7 December 2022, so 'Existing Hosts' have been given an extra 6 months to apply for Licences).

If you don't apply by Saturday 30 September 2023, you must stop using the Accommodation as a Short-Term Let and you can only re-start **if and when** the Council decide to grant that Licence Application.

The Confirmation is only a temporary waiver of the usual need to have a Licence applied for and granted before operating a Short-Term Let. This waiver lasts until Saturday 30 September 2023, but if the Host applies for a Licence for that Accommodation no later than that date then the waiver continues until the Council have made a decision to grant or refuse the Licence Application (subject to STL Order, Article 7, which makes 'Transitional Provision').

If you have a Confirmation:

- we will accept that the fact that Confirmation has been issued is evidence that you have "Existing Host" status under the rules ("Transitional Provisions") that allow Existing Hosts to operate without a Licence in relation to the Accommodation described on the Confirmation;
- you will be able to continue operating after that date, pending a decision on your Licence Application.

IMPORTANT
The Confirmation the Council have issued stops applying if you <u>don't</u> apply for a Licence for <u>that</u> Accommodation by Saturday 30 September 2023.

The Confirmation is issued free-of-charge to Hosts who have satisfied the Council that they have 'Existing Host' status in relation to the particular Accommodation described in the Confirmation document. It

- is only confirmation that the Host qualifies for the special rules that temporarily allow "Existing Hosts" to operate without Licences, (the "Transitional Provision" in Article 7 of the STL Order) and
- only relates to the Accommodation described – it is possible that the Host owns other Accommodation where the Host is not an 'Existing Host' in relation to that Accommodation.

6. Can I apply for a 6-week 'Temporary Exemption'?

With one exception, the answer is "no".

The exception is that where a Host undertakes in writing:

- that the specified Premises will cease to be used as a STL of any "Type of Short-Term Let" at the end of the shorter of these periods:
 - six (6) weeks from the date of Application for a Temporary Exemption, or
 - from the date of Application until Saturday 30 September 2023, and
- that those Premises will not be used for a period of twelve (12) months after that end date (unless a STL Licence has been granted),

the Licensing Authority will entertain that Application.

The fees chargeable for a Temporary Exemption application are set out below (FAQ 12. "How much is the fee?", Part (d)(3), and in LPS Annex J - "Fees").

The time within which the Licensing Authority will reach a final decision on a temporary exemption application is six (6) months after the application. Hosts wishing a Temporary Exemption should apply with this processing time in mind.

The Council may inspect the Premises before deciding whether or not to grant the Temporary Exemption, and may attach conditions to it (1982 Act, Schedule 1, Paragraph 1A(3)).

7. Can I apply for a 6-week 'Temporary Licence'?

No. NAC have decided the policy should not allow this (LPS Part 17).

8. What is the 'Immediate Family Member' exemption?

You do not need a STL Licence if the Guest is an Immediate Family Member of the Host.

There are further definitions in the legislation of "Qualifying Relationship" and "Qualifying Relative".

No STL Licence is needed if the position is (a), (b) or (c):

(a) "Qualifying Relationship"

The Guest and the Host are:

- (i) married to each other,
- (ii) in a civil partnership with each other, or
- (iii) living together as though they were married,

(b) "Qualifying Relative"

The Guest and the Host are related as:

- parent - child
- grandparent - grandchild or
- sibling - sibling
- step-parent - step-child

where:

- two people are to be regarded as siblings if they have at least one parent in common,
- a person is to be regarded as the child of another person, if the 'child' is being or has been treated that person's child

(c) Combinations

The exemption also extends to situations where the Host and the Guest are connected through a combination of "Qualifying Relationship" and "Qualifying Relative".

9. What is 'Excluded Accommodation'?

This is defined in Paragraph 1 of Schedule 1 to the STL Order. There are many examples of Excluded Accommodation, including:

- (a) an Aparthotel,
- (b) Premises with a Premises Licence under the alcohol licensing legislation (the Premises covered by an unconfirmed "Provisional Premises Licence", or by an "Occasional Licence", would not be "Excluded Accommodation"),

- (c) a hotel which has Planning Permission granted for use as a hotel,
- (d) a Hostel,
- (e) a Refuge,
- (f) a Bothy, or
- (g) Accommodation owned by an employer and provided to an employee in terms of a contract of employment or for the better performance of the employee's duties.

10. What are 'Excluded Tenancies'?

This is defined in Paragraph 2 of Schedule 1 to the STL Order. There are many examples but what they have in common (with one exception) is that they are already regulated under other legislation (it is common for licensing statutes to be worded like this to avoid duplication). An example is the 'Private Residential Tenancy'. The exception is the "Student Residential Tenancy".

11. When do I need to apply?

This depends on whether you are:

- a 'New Host' or
- an 'Existing Host' in relation to that Accommodation

Am I a "New Host" or an "Existing Host"?

<i>What is the difference?</i>
<p><i>The focus is on the <u>particular</u> Accommodation that the Host wants to use as a Short-Term Let:</i></p> <p><i>An 'Existing Host' is a Host who used <u>that</u> Accommodation as a Short-Term Let on any date in the period 1 July 2022 to 30 September 2022 (the day before the STL Order became Law);</i></p> <p><i>A 'New Host' is a Host who is not an 'Existing Host' in relation to <u>that</u> Accommodation as a Short-Term Let before.</i></p> <p><i>The words 'in relation to <u>that</u> Accommodation' are important. For example, Hosts might have been STL Hosts for years with a portfolio of several holiday homes. They will be 'Existing Hosts' in relation to <u>those</u> homes. But if they acquired another house (for example, by sale or inheritance) after 30 September 2022 then they are 'New Hosts' in relation to <u>that</u> house, even if they</i></p>

are 'Existing Hosts' in relation to the others and they intend to operate the new house as a STL too. They are still 'New Hosts' even if the previous owner (the seller or the deceased owner) would have qualified as an 'Existing Host'.

See FAQ 20 "What is Evidence of 'Existing Host' status?"

By Law the Council have a time period to make a decision on your application.

'New Host' – 9 months

'Existing Host' – 12 months

Because of the high volume of applications it is likely that there will be no decision in your case until near the end of that period.

If you are a "New Host"

You will be treated as a New Host:

- if you have used these Premises as a Short-Term Let in the past but are not so using them on the date of your Application
- if you are using, or have used, other Premises as a Short-Term Let but you are not currently using the Premises covered by the Licence Application or Confirmation Request.

<i>If you are a 'New Host'</i>
<i>You should apply for a Licence <u>now</u>. You cannot use the Accommodation as a STL until <u>both</u>:</i> <ul style="list-style-type: none"><i>- you apply for a Licence, and</i><i>- the Council grant it.</i>

If you are an "Existing Host"

You can apply now but you don't have to until Saturday 30 September 2023.

In the meantime you can ask NAC to confirm your 'Existing Host' status under NAC's "Existing Hosts Confirmation Scheme". See our website:

<https://www.north-ayrshire.gov.uk/business-licensing/licensing/accommodation-licences>

Download the form there and email it to us with the documentary evidence described in the request form to support your claim (the form gives several examples of suitable evidence – so far most Hosts that we have issued Confirmation to have shown us Rates Bills).

We expect to be able to issue a Confirmation within a few weeks of the Host's request.

The dates in the legislation

Date	"Existing Hosts"	"New Hosts"
Saturday 1 October 2022	<ul style="list-style-type: none"> You can continue to operate your premises as a STL as before (you must still comply with existing laws) You will have to apply for a STL licence by Saturday 30 September 2023, but we recommend that you apply by the end of August 2023 (see FAQ 1 "What should I do?", Section (b) "decide WHEN to apply") You have a "Deemed Licence" until Saturday 30 September 2023 (unless the Council <u>refuse</u> your Licence Application earlier) If the Council <u>refuse</u> your Licence Application you must stop using your premises as a STL within 28 days of the decision (subject to appeal to the Sheriff) 	<ul style="list-style-type: none"> you must <u>not</u> operate a STL without a licence being <u>granted</u> by the Council you can <u>apply</u> for a STL Licence but you cannot <u>operate</u> a STL unless and until your application has been <u>granted</u>.
Saturday 30 September 2023	<ul style="list-style-type: none"> You can only operate <u>without</u> a licence if you have already applied for a STL Licence (but only while the application is still pending); You can't use a Confirmation after Saturday 30 September 2023: <ul style="list-style-type: none"> a Confirmation document is <u>not</u> a 'licence' and the request for Confirmation is not a 'licence application' If your STL Licence application is <u>refused</u> by the Licensing Authority you must stop using your premises as a STL within 28 days of the decision (subject to appeal to the Sheriff) 	<p>[Saturday 30 September 2023 has <u>no</u> relevance to New Hosts and the position remains:</p> <ul style="list-style-type: none"> you must <u>not</u> operate a STL without a licence being <u>granted</u> by the Council you can <u>apply</u> for a STL Licence but you cannot <u>operate</u> a STL unless and until your application has been <u>granted</u>.]

Monday 30 September 2024	• All hosts must have a STL licence.	• All hosts must have a STL licence.
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12. How much is the fee?

The fee for a STL licence depends on

- (1) the type of STL licence being applied for:
 - fees for "Secondary Letting" are higher than
 - fees for "Home Letting" / "Home Sharing" / both
- (2) the maximum number of Guests being applied for
- (3) whether the Application is for grant or renewal

The "Table of Fees" charged in the Financial Year 1 April 2022 to 31 March 2023 is shown below.

(a) The fee is assessed on the basis of the Application

If the Council:

- refuse the Application (whether for Grant, Renewal or Variation of the Licence, or for Consent to a Material Change),
- grant it for less than was applied for (such as a different "Type" or a lower Maximum Capacity), or
- later vary the licence so that it is less than was granted (such as a different "Type", setting a lower Maximum Capacity, or removing 'without limit of time' status from a Licence previously renewed),

the fee is **not** refunded in whole or in part, and is not credited against future fees or any other money owed to the Council, with one exception.

(b) Exception: 'Recurring Fee'

The exception arises in the case of renewal:

If the Licence-Holder has requested renewal without limit of time (and has accordingly paid the 'Recurring Fee' in addition to the 'renewal fee'), but the Council either:

- refuse the renewal or
- grant it but only for a fixed period,

then the Council will refund or credit the Recurring Fee, but the Application Fee for the renewal will not be refunded, reduced or credited.

(c) Transfer of the Premises

If the Host sells the Accommodation during the currency of the Licence, and the new owner wishes to continue operating the Accommodation as a STL, the Host (seller) will apply for a Variation of the licence, inviting the Council to substitute the buyer as the Host.

(1) If the Council grant the Variation application:

the Licence continues, with the only change being that the buyer is now shown as the Host.

(2) If the Council refuse the Variation application:

the Licence ceases if and when the Licence-Holder no longer has a right to occupy the Premises (after settlement of the sale). The new owner will have to apply for a new Grant of a Licence. The new owner will be entitled to continue operating the STL while the new Application is pending, but must stop:

- if the Application is refused (subject to appeal to the Sheriff) or
- if the Application is rejected on a preliminary basis because it involves a "Breach of Planning Control" (for example, if the area where the Premises have been designated as a "Short-Term Let Control Area" under the Planning legislation, the Licensing Authority may reject a STL Application if it lacks both Planning Permission and a Certificate of Lawful Use. If the Host later obtains one or other, the Host may re-apply)

(d) Table of Fees 2022-2023

This is the "Table of Fees" charged in the Financial Year 1 April 2022 to 31 March 2023.

The Council's charges of all sorts, including licensing fees, are revised each year shortly before the start of the Financial Year usually in line with the Consumer Prices Index published by the Office of National Statistics.

1. Grant Fees

	Maximum Occupancy applied for (4 or under)	Maximum Occupancy applied for (5 or more)
Secondary Letting	£250	£400
Home Letting or Home Sharing (or both)	£125	£200

2. Renewal and Recurring Fees

	Maximum Occupancy	Maximum Occupancy
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	applied for (4 or under)	applied for (5 or more)
Secondary Letting	£200	£350
Home Letting or Home Sharing (or both)	£100	£175

Renewals which are granted without limit of time also have "Recurring Fees" (see below). Renewals which are granted for fixed period do not.

3. Other fees

These fees do not depend on either the Maximum Occupancy or the Type of STL.

Variation Application (1982 Act, Schedule 1, Paragraph 10) - £58

Application for Consent for a material change (1982 Act, Schedule 1, Paragraph 9(2)) (called in NAC "Amendment") - £35

Temporary Exemption Application (6-week exemption) (1982 Act, Schedule 1, Paragraph 1A) – 75% of the fee that would be due if there was an application for a Licence rather than a Temporary Exemption (if 75% does not give a figure in whole pounds, the fee is rounded-down to the nearest whole pound). There is only one situation where the Council can grant a Temporary Exemption.

4. Recurring Fees

Article 15(3) of STL Order is:

"15(3) A licensing authority may provide for annual or other recurring fees."

If a Licence is renewed indefinitely, it will be on condition that the Licence-Holder pays the Licensing Authority a recurring fee for each ten (10) year period, in advance. The first 10-year payment is due when the Host lodges the Renewal Application. The amount of a recurring fee is equal to the Renewal Fee which would be due applicable on the assumption that the Renewal Application was lodged on the Expiry Date of the Licence. Future Recurring Fees are due on the 10th, 20th, 30th anniversaries of the Expiry Date, and their amounts are determined by the Renewal Fee which would otherwise be charged on the relevant anniversary.

<i>Example</i>
<i>A Licence was granted on 15 June 2023, with a 3-year Duration and an Expiry Date of 31 May 2026. The Licence-Holder applies to the Council in 2026 for renewal and this is granted 'without limit of time'.</i>
<i>The Licence-Holder will pay in 2026:</i>
<i>(a) the 'Renewal fee' shown in the Table above, and</i>
<i>(b) the 'Recurring Fee' of the same amount as the 'Renewal Fee'.</i>

If the Council agree to renew the Licence 'without limit of time', the Host does not have to apply again for Renewal, but every ten years will have to pay a 'Recurring Fee'. The next 'Recurring Fee' will be due on 31 May 2036 and the amount due will equal the renewal Fee that would be charged if someone was applying for Renewal on that date.

If the Premises are sold during the ten-year period, it will be for the buyer and seller to agree between themselves if and how the Recurring Fee should be apportioned between them. The Council are not involved in this.

The Recurring Fee will **not** be refunded in whole or in part, and cannot be credited against other money due to the Council, if the Premises:

- later cease to be used as a STL or
- later become exempt from needing a STL Licence (for example, because they are later occupied by a relative of the Host, or they later become subject to an 'Excluded Tenancy').

13. How long does the Licence last?

See LPS Annex D – "Licence Duration" for details.

The length of a STL Licence might be different at the Grant stage from the Renewal stage.

(a) Grant

If we grant a STL Licence, the Licence will be granted for approximately 3 years. The exact duration varies from one case to the next, because the Council grant Licences set to expire on the last day of the month preceding the anniversary of the grant.

Example

If the Council grant a Licence on 20 June 2023, it will have an Expiry Date of 31 May 2026. A Host wanting to renew the Licence after that should apply before that date in 2026. If that is done the Licence granted in 2023 automatically stays in force, even after 31 May 2026, for as long as the Council take to make a decision on the renewal application.

(b) Renewal

The default position is that the Licence will be renewed without limit of time (there is an additional condition, requiring the Host to pay the equivalent of the grant fee every 10 years). However, if on a case-by-case basis the Council might set a time limit on the renewed licence, for example, if there are objections to the renewal or there have been complaints since the Licence was granted.

14. What conditions does a STL Licence have?

There are two kinds of STL Licence condition:

- (a) Mandatory Conditions
- (b) Additional Conditions

Breach of a licence condition, whether a Mandatory Condition or an Additional Condition can be enforced, and may lead to one or more of:

- Prosecution
- Revocation or Suspension of the Licence
- Variation of the Licence
- "Enforcement Notice" served on the Licence-Holder

See LPS Annex E - "Enforcement" for more information.

(a) Mandatory Conditions

Any STL Licence anywhere in Scotland has the "Mandatory Conditions" set out in STL Order, Schedule 3.

"Mandatory" means "required by Law". These conditions apply automatically to all STL Licences in Scotland. NAC has not decided to impose them, and cannot change them or dispense with compliance.

See LPS Annex C - "Mandatory Licence Conditions" for more information.

(b) Additional Conditions

As well as the national Mandatory Conditions, each Licensing Authority are also able to attach "Additional Conditions".

With two exceptions, NAC do not intend to apply any Standard Conditions to STL Licences.

NAC condition 1: responsibilities to neighbours etc.

The first exception is that NAC have decided to apply the "template additional condition" set out in the Scottish Government Guidance (Paragraph 5.33):

"1. The licence holder must provide adequate information on, and facilities for, the storage, recycling and disposal of waste.

2. The licence holder must advise Guests of:

- their responsibilities;*
- the use of the bins / sacks provided for the premises; and*
- the location of the nearest recycling centre or recycling point.*

3. The licence holder must:

- clearly label bins as belonging to the premises;*
- ensure that Guests manage their waste in compliance with (2), including when they depart; and*
- maintain the bin storage area and the exterior of the premises in a clean and tidy condition."*

NAC condition 2: recurring fee

The second exception is the "recurring fee" condition for renewed Licences. If a licence is renewed 'without limit of time', it will have an additional condition requiring payment of a "recurring fee" both:

- at the time of applying for renewal, and;
- every ten (10) years afterwards.

If the most recent decision of the Council has been:

- to grant a Licence for the Premises or
- to renew the Licence for a fixed period

there is no recurring fee.

If a recurring fee is not paid when it is due then the Council can revoke your Licence.

15. What is the 'Maximum Capacity'?

(a) Why is this important?

One of the mandatory conditions that is attached to all STL licences is that the licence holder must ensure that the number of Guests residing on the premises does not exceed the number specified in the licence: this is the "Maximum Capacity" (MC 11).

The Maximum Capacity you apply for will affect the fee you have to pay, so it's in your interests not to apply for a high capacity if there's a possibility that we might set a lower limit - you might end up paying a higher fee, but it would not be refunded or reduced.

(b) How is Maximum Capacity set?

We will look at your application form and your Layout Plan and will follow any guidance issued by Scottish Fire and Rescue or the Council's Housing or Protective Services Departments.

Children under 10 years of age are not counted when calculating the Maximum Capacity.

(c) How do I tell the Council what Maximum Capacity I want?

All grant applications will ask you to say how many Guests you want to accommodate in the premises.

We will not expect you to state this when you apply for renewal as we will assume that:

- the Premises already offer the same accommodation as before, and so
- you are applying for the same Maximum Capacity as Licence already allows,

unless you specify a different figure or your Licence has previously been changed to a different capacity.

(d) How do I request a change in Maximum Capacity later?

If you want to change the Maximum Capacity:

- when you apply for renewal, you should complete that part of the application form
- at any other time apart from renewal: you should apply to us for 'consent for a material change' (in NAC we call this an "Amendment", but other Councils might have a different name). There is a fee: see LPS Annex J - "Fees" or FAQ 12(d)). The Law is in 1982 Act, Schedule 1, Paragraph 9(2).

Either way, you should give us information to support your request, for example a new Layout Plan showing that the accommodation has been expanded.

16. What should I do BEFORE I apply for a Licence?

Before you apply for a STL licence of any Type:

- (a) Check to see if you need a 'Day-to-Day Manager'
- (b) Check that you can comply with the Licence requirements

- (c) Get the documents the Council will need to see

(a) Check to see if you need a 'Day-to-Day Manager'

Not all Licences need a Day-to-day Manager (here "DDM").

The DDM is the individual who is to be directly concerned with the management of the licensed Premises and is responsible, along with the Licence-Holder, for complying with the licence conditions. We ask about DDMs because one of the national Mandatory Conditions that your Licence has automatically is:

"1. Agents

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."

Part F of the Licence Application form (Day-to-Day Manager) has advice on when you do need a DDM and when you don't: "Can I skip this section?".

The advice covers 5 situations. Look for the situation that describes your own case, and the answer to "Can I skip this section?" will be "Yes" or "No".

	Skip?
<i>The "Type of Short-Term Let" is "Home Letting", "Home Sharing" or both.</i>	Yes
<i>Both these apply:</i> <i>1. I am a <u>natural</u> person and</i> <i>2. I can answer this question "yes":</i> <i>"Will I (or if there is more than one Licence Applicant, will any of them) manage the Premises directly, so that if Guests have any inquiries, want services done, or want things fixed, they will contact me (or that person) or a local agency?"</i>	Yes
<i>Both these apply:</i> <i>1. The Licence is held by a Partnership or Trust (established by a deed, destination in a conveyance, Trust Disposition and Settlement, or other testamentary document) and</i> <i>2. I can answer this question "yes":</i> <i>"Will I (or any of the other Partners or Trustees manage the Premises directly, so that if Guests have any inquiries, want services done, or want things fixed, they will contact me (or that person) or a local agency?"</i>	Yes

<i>The answer to both questions is "no" or "this does not apply"</i>	<i>No</i>
<i>The Licence is to be held by another <u>Non-Natural Person</u> (a common example is a Company registered under the Companies Acts, with a Registration number like "SC123456")</i>	<i>No</i>

If your answer to "Can I skip this section?" is "Yes" you don't need a Day-to-day Manager.

If your answer to "Can I skip this section?" is "No":

- we need information on who the DDM will be after the Licence is granted (or renewed or transferred)
- the Police will check on that person
- the DDM must sign this form as well as you, and
- this is your legal position:

IMPORTANT
<i>The DDM is a "Joint Holder" of the Licence – this will mean that if the DDM stops acting as such, you must apply to the Council within six (6) weeks to nominate a new DDM. If you do this in time, the Licence continues. If you don't do this in time, the Licence stops. This is the Law and the Council cannot extend the 6-week period. The Law is the Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 8(4).</i>
<i>We would treat an application to nominate a new DDM as satisfying the requirement to apply for a <u>new</u> Licence. It is much cheaper to apply for that than to apply for a Licence.</i>

(b) Check that you can comply with the Licence requirements

You should read the Application Form, especially Part K (Things you should check yourself) and check:

- [a] that you can comply with the Mandatory Conditions attached to the STL licence (LPS Annex C - "Mandatory Licence Conditions" is set out at the end of these FAQs)
- [b] that you can comply with the NAC Additional Condition about waste disposal (LPS Part 10(b) (heading "The first exception"))
- [c] that you can comply with the rules about giving information and documents to Guests and Listings Agencies. See
 - LPS Part 19 ("What information do I have to give Guests?")
 - LPS Part 20 ("What do I have to put in listings or adverts?")

- LPS Annex L ("What documents do I have to give Guests?")
- [d] insurance cover (see FAQ 8 "What are the rules about insurance?")

(c) Get the documents the Council will need to see

You will need:

- [a] a Layout Plan (see FAQ 18 "What is a Layout Plan?")
- [b] a Location Plan (see FAQ 19 "What is a Location Plan?")
- [c] if you want to be treated as an "Existing Host", evidence of that status (see FAQ 20 "What is Evidence of 'Existing Host' status?")
- [d] if you don't own the Accommodation, we need the written consent of the owner (see FAQ 21 "What proof of owner's consent do I need?").
- [e] Legionella Risk Assessment: see Annex L below, "MC 9".
- [f] "Energy Performance Certificate" (EPC) (see Section (b) of FAQ 23 ("What do I have to put in listings or adverts?"))
- [h] a Fire Safety Checklist. This is a form prepared by Scottish Fire and Rescue Service. You will complete this yourself and you don't need a SFRS employee to visit your STL accommodation. You can get a blank form from our website.

17. What are the rules about insurance?

LPS Annex L details the Mandatory Conditions ("MC") which require Hosts to have various documents, and this includes headings:

"MC 15: Insurance"

"Tenement insurance - the 'Prescribed Risks' "

MC 15 is:

"15. The Holder of the Licence must ensure that there is in place for the Premises—

(a) valid buildings insurance for the duration of the licence, and

(b) valid public liability insurance for the duration of each Short-Term Let agreement."

Hosts are advised to review their insurance policies to check that they, their Guests, and their Guests' property are covered. The Council have no involvement in this.

18. What is a Layout Plan?

The information you have to give us depends on what you want the Council to do:

[a] to grant a new Licence
[b] to nominate a new Day-to-Day Manager
[c] to make any other 'material change' (e.g. to alter layout) ("Amendment")
[d] to renew an existing licence (not a Confirmation)
[e] to transfer a Licence ("Variation")

(a) to grant a new Licence

All applicants for the grant of a STL licence must send us a Layout Plan of the Premises:

- (a) If you are sending your Application by email, you can attach the plan as an email attachment.
- (b) if you are sending the Application to us on paper by post, hand-delivery or fax, we need six (6) copies of the Layout Plan.

The reason we need 6 copies in case (b) is because:

- 1. we have to send 4 copies of your application to the consultees (Police Scotland; Scottish Fire and Rescue Service; and two Council Departments: - "Protective Services" and "Housing");
- 2. we need two more copies, one for our own Licensing records and one to send back to you if we grant the Licence.

If the Layout Plan is sent to us by email, we only need one attachment. We can detach it and attach it to as many emails as we need.

You can either:

- (a) use or re-use professionally-drawn plans (drawn by an architect, surveyor or similar professional) prepared for the licence application or for other purposes (such as an application for a Building Warrant or Planning Permission), but you are responsible for arranging the permission of the copyright-holder if you choose to re-use plans;
- (b) use a hand-drawn plan which contains detail of the locations of fire alarms, fire exits, and the dimensions of rooms, so that the capacity of the rooms can be determined.

However it is drawn, the Layout Plan must show:

- Rooms – living area/bedrooms/bedrooms available for Guests;
- Room sizes, including bedrooms (dimensions);

- Fire escapes;
- Location of heat/smoke alarms;
- Location of fire doors; and
- Location of stairs/elevators/lifts;

Whether you use a professionally-drawn plan or a hand-drawn plan, if any of the consultees listed above consider that the Layout Plan you have sent lacks enough detail, we may decline to process your Application further unless and until you supply further information, which may include photographs or another plan. It is in your interests to supply as much information as is possible at an early stage, as this may allow quicker processing of your licence application. For example, if SFRS or Council officers tell the Licensing Section that the information supplied initially is inadequate to allow them to properly assess your application, it might avoid the need to arrange an actual inspection of your Premises if further information is available.

When the Licence or other proposal is approved, we will mark the Layout Plan with a Notice such as:

"1 June 2023

This is the Layout Plan approved in relation to the Licence granted under number NA00123F.

(signed by a member of the Licensing Section)

*pp. Raymond Lynch
Clerk to the Licensing Committee"*

and send it back to you.

(b) to nominate a new Day-to-Day Manager

We do not need any plans, but the proposed new Day-to-Day Manager must sign the Application as well as the owners of the property.

(c) to make any other 'material change' (e.g. to alter layout) ('Amendment')

The same plans are needed as if the proposal was [a] "to grant a new Licence".

(d) to renew an existing licence

This means renewal of a Licence. You cannot ask to renew the separate 'Confirmation' which North Ayrshire Council may have issued under the Council's 'Existing Hosts Confirmation Scheme'.

For renewal applications, where there has been no change to the layout of the premises no plans are required with the Application. If there has been a change, we need the same plans as if the proposal was [a] "to grant a new Licence".

(e) to transfer a Licence ("Variation")

For transfer applications, where there has been no change to the layout of the premises no plans are required with the Application. If there has been a change, we need the same plans as if the proposal was [a] "to grant a new Licence".

19. What is a Location Plan?

In addition to the Layout Plan, you must give us a Location Plan, at a scale of no less than 1:1,500, showing the Premises in relation to streets and other buildings.

An aerial photograph (such as a map taken from the Internet) is an acceptable alternative, as is a Location Plan shown as an inset on the Layout Plan.

If the Location Plan is not shown as an inset on the Layout Plan we need six (6) copies if we need six (6) copies of the Layout Plan unless you send the Location Plan to us by email.

20. What is Evidence of 'Existing Host' status?

Where an applicant applies as an 'Existing Host', we will need the applicant to certify this when submitting a STL licence application.

There are two ways to establish this status:

(a) if we have already issued a Confirmation to the Host under the NAC "Existing Hosts Confirmation Scheme" (EHCS) you will have been given a reference number (like "NA00001C"). We will accept that Confirmation as evidence that you have 'Existing Host' status under the rules ("Transitional Provisions") that allow Existing Hosts to operate without a Licence pending a decision from the Council to grant or refuse your Application, so when you apply for a Licence the form will ask you for the reference number;

(b) if you do not have Confirmation, you should give us the same sort of evidence of 'Existing Host' status as is used in the EHCS: choose one of the options (a) - (f):

(a)	The Accommodation was registered in your name for Non-Domestic Rates at any time in the Financial Year 2022-2023 and is still so registered at the date of this request (this does not mean Council Tax)
(b)	The Accommodation was registered in tax records in your name held by HM Revenue and Customs for the Financial Year 2022-2023
(c)	The Accommodation was registered as a Short-Term Let in your name with North Ayrshire Council at any time in the Financial Year 2022-2023 (e.g. with the Waste Authority confirming arrangements for regular waste)

	uplifts)
(d)	The Accommodation was listed in <u>your</u> name with a Listings Agency (like "AirBNB", "VisitArran" or "Cottages and Castles") as booked or available for booking, where the occupation was on any date in the period 1 July 2022 to 30 September 2022
(e)	The Accommodation was listed on <u>your</u> website as booked or available for booking, where the occupation was on any date in the period 1 July 2022 to 30 September 2022
(f)	None of these apply

'in your name' includes in the name of a Limited Company or partnership in which you are or were a Director or partner.

You will have to give us documentary evidence:

(a) Rates

a letter or email from the Council's Finance Department confirming that information.

(b) Tax

a letter or email from HM Revenue and Customs confirming that information.

(c) Council

a letter or email from North Ayrshire Council confirming that information (e.g. from the Waste Authority confirming arrangements for regular wate uplifts)

(d) Listings Agency

a letter or email from the listing agency confirming that information.

(e) Your own website

a written statement of your website address (this can be an email)

(f) None of these

a letter or email from a Guest:

- giving the Guest's full name and postal address,
- confirming that the Accommodation was booked by the Guest,
- giving the starting and ending dates of the booking period (including at least one date in the period 1 July 2022 to 30 September 2022), and
- stating that **you** were the Host.

21. What proof of owner's consent do I need?

An application for a STL licence does not have to be made by the owner of the premises. However, if not the owner, the applicant must provide written consent from the owner or the owner's Solicitor (or if the Premises are owned by more than one person: all of them or a Solicitor authorised by all of them).

22. What documents do I have to give Guests?

One of the Mandatory Conditions your Licence has automatically is Condition 12 ("Information to be displayed"). This requires the licence-holder to provide documentation to Guests:

"12. The Holder of the Licence must make the following information available within the Premises in a place where it is accessible to all Guests—

- (a) a certified copy of the licence and the licence conditions,*
- (b) fire, gas and electrical safety information,*
- (c) details of how to summon the assistance of emergency services,*
- (d) a copy of the Gas Safety Report,*
- (e) a copy of the Electrical Installation Condition Report, and*
- (f) a copy of the Portable Appliance Testing Report."*

See LPS Annex L - "What documents do I have to give Guests?".

You also have to give the Guests information about waste disposal (see Part 10(b) above - the Licence condition about waste disposal: heading "The first exception").

The Licensing Authority or Civic Licensing Standards Officer may ask to see these documents. Failure to produce or have all the documents required may result in an Enforcement Notice being issued or the STL Licence being suspended or revoked.

23. What do I have to put in listings or adverts?

This is covered by Mandatory Condition 14(1):

"14.—(1) The Holder of the Licence must ensure that any listing or advert (whether electronic or otherwise) for the Short-Term Let of the Premises includes—

- (a) the licence number, and*
- (b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the Premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008."*

You need:

(a) Licence Number

This is the number which the Council will give to your case and will be on all correspondence from us (this is called the "Unique Licence Number") but over time your case might have 1, 2, or even 3 numbers.

If you have all or some of:

[1] an 'Existing Host Confirmation Scheme' number issued by NAC (the format is "NA00123C" – ending "C")

[2] a Licence Application number (e.g. "NA00123P" – ending "P") or

[3] a Licence Number (e.g. "NA00123F" – ending "F"),

and the listings agency only ask for one number from you:

give [3] if you have one, and if not

give [2] and if you don't have [2]

give [1];

(b) "Energy Performance Certificate" (EPC)

You have to give the rating ('A' to 'G'): See

FAQ 27: "Energy Performance Certificate" (EPC)

24. What do I have to tell the public?

You need two forms. You can get both on our website:

<https://www.north-ayrshire.gov.uk/business-licensing/licensing/accommodation-licences>

The forms are:

(a) "Site Notice"

(b) "Site Notice Display Certificate"

(a) "Site Notice"

At the same time as you send us the licence application form, you have to display a "Site Notice" at or near the proposed premises so that it can conveniently be read by the public. Site Notices are used for many Council purposes (e.g. for Planning Permission as well as Licensing) to tell the public about proposals affecting premises.

You can use the Site Notice on our website. You can display it anywhere where it can be conveniently read by the public.

- One option is to put it on the inside surface of a window facing out, so that can be seen and read from a public place: this has the advantage that you will know that the Site Notice will not be affected by the weather and will not be removed without your permission;
- Site Notices are sometimes attached to boards and tied to nearby lampposts or railings. If you are leaving the Site Notice outside it is a good idea to cover it in plastic so that it will not be damaged.

The Site Notice must be displayed for a period of 21 days starting from the date when the application was sent to the Council.

The period is 21 days but the period for third parties to state objections or representations to your application is 28 days – this is the effect of the legislation. There is no legal reason why you can't display a Site Notice for 28 days or longer, but you don't have to.

(b) "Site Notice Display Certificate"

After 21 days you must give the Council a "Site Notice Display Certificate". We cannot proceed with your application without it.

You can use the "Site Notice Display Certificate" on our website. Complete it and attach it to an email to us (you might want to print a copy for your own records).

The form has three options. The most common option is (a) but if (b) or (c) apply you will have to tell us why.

If we think that you have failed to observe the Site Notice rules, we can require you to display the notice again. This very rarely happens – usually, people have no problem displaying a Site Notice for the full 21 days so (a) applies.

25. What will NAC do after I apply?

(a) Initially

You can get a blank Application form from our website.

We will refuse to accept an application to grant or renew a licence if:

- the Application Form is not completed
- the Form is not signed by everyone who is to appear as a Licence-Holder (all the Joint Holders, including the Day-to-day Manager)
- the Form does not have all the supporting documentation described in the form (see FAQ 16 "What should I do BEFORE I apply for a Licence?", Section (c) "Get the documents the Council will need to see"), or
- you have not paid the fee set by NAC.

Although there is currently no Short-term Let Control Area designated in NAC under the Planning legislation, if there is one in force when you apply covering the Premises then you will have to be able to show that your application does not involve a 'breach of planning control'. If you do not do this, NAC would be entitled to reject your application for that reason as well. That would be rejection, not refusal: if you later got either:

- a grant of Planning Permission or
- a Certificate of Lawful Use or Development,

you could re-apply.

(b) Processing your Application

This description of the Licensing process in NAC applies to everything the NAC Licensing Committee are responsible for (such as the operation and driving of Taxis and Private Hire Cars, Street Trading and Markets, Public Entertainment and now the operation of a Short-Term Let).

The Licensing functions of NAC are carried out by the Licensing Committee, which is a Committee of Elected Members. The Council have a "Delegated Powers" arrangement, which authorises the Clerk to the Licensing Committee and other officers in the NAC Licensing Section to grant Licence Applications without reference to the Licensing Committee if:

(a) there are no Objections, adverse Representations or adverse consultation responses made by any of:

- Police
- Scottish Fire and Rescue Service (SFRS)
- NAC Departments
- Members of the public

and

(b) the Application does not breach any NAC Policy.

For example, over 90% of Applications for Taxi Driver's Licences are granted under Delegated Powers only a few months after the Applications are lodged with NAC, and never need to be considered by the Licensing Committee.

When a person applies for a STL Licence we put details of the application on our website and send copies of the application (with the Layout Plan and Location Plan) to the following consultees:

- Three Council Departments - "Protective Services", "Housing" and "Development Management" (Planning)

- Police Scotland
- Scottish Fire and Rescue

Any of them, and members of the public, can state written objections or representations within 28 days.

If that period passes without any objections or representations, then a Council officer considers whether or not it is appropriate to decide the application under Delegated Powers.

We expect that the position with Applications for STL Licences will be similar to applications for other licences, and that the most Licence Applications will be dealt with under Delegated Powers.

If we have one or more of:

- Objections,
- Representations which we consider to be adverse to your Application, or
- an issue with NAC Policy,

your case must be referred to the Licensing Committee (as it is now outside "Delegated Powers"). The Licensing Committee will decide if your case needs a Hearing. If there is a Hearing then you will be invited to attend, and if you cannot attend then you are entitled to send NAC written representations (by letter or email). Anyone making Objections or Representations will have the same right to attend or send written representations.

The Committee meet in Council Chambers at Cunninghame House, Friars Croft, Irvine. For many months during the Coronavirus Emergency the Committee met remotely, using video-conferences where licence applicants dialled-in, but now the Committee are meeting in-person, as they did before Coronavirus.

The Council have to consider the potential reasons for refusal set out in 1982 Act, Schedule 1, Paragraph 5(3) which are (briefly) that the Licensing Authority consider that:

- the Applicant is not a 'fit and proper person'
- the Premises are not suitable for their proposed use
- there is another good reason for refusing the Application (for example, because of previous breaches of legal requirements).

Any Hearing of your case is likely to be in private following a Resolution made under Local Government (Scotland) Act 1973, Section 50A(4). If the Committee make that Resolution, the only people present will be:

- you
- representatives of the Police/SFRS/NAC Departments
- any members of the public who have made Objections or Representations.

You are entitled to be present and to be represented by a Solicitor or Advocate. If you do not intend to be present or represented, you can send a written statement of your position. You should ensure that this statement arrives at the Licensing Section before 12 noon on the last business day before the Committee date. Email:

licensing@north-ayrshire.gov.uk

We advise you to set 'delivery receipt' or equivalent before you send your email.

Please note that although you are free to obtain independent legal advice and representation, the Council will not pay for either.

If you do not attend, are not so represented, and do not send a statement:

- (a) The Committee may still deal with the case,
- (b) The Sheriff is likely to reject any Appeal (1982 Act, Schedule 1, Paragraph 18(2))

Some of the same rules apply to the members of the Licensing Committee dealing with STL Licensing as in any other kind of licensing: Members of the Committee must take account of the terms of the Councillors' Code of Conduct published by the Standards Commission for Scotland which sets out the need to ensure:

- that there is a proper and fair hearing for all regulatory decision-making and
- that there is no suggestion of pre-judging or bias in the consideration of any applications before the Committee.

Members of the Committee may declare an interest and choose not to participate in the decision-making of any licensing matter in respect of which they have had any prior involvement either personally or in their capacity as a Councillor if they feel that such prior involvement would compromise their impartiality.

26. How can I sell a STL property and transfer the Licence?

The rules are in 1982 Act, Schedule 1, Paragraph 10 ("variation").

Use the Application form on our website – this is the same form that we use for all STL functions (for example, granting and renewing licences). Follow the instructions in Part A ("What do you want the Council to do?") and the form will tell you which other parts of the form we need.

We must copy the Transfer Application to both:

- Police Scotland
- Scottish Fire and Rescue Service (SFRS)

Since you will want the Variation to happen as soon as possible (or at the Date of Settlement of a sale transaction) we will assume (unless you tell us otherwise) that your application form says:

"I want the variation to take effect as soon as it is granted, and I give up my right to appeal and so postpone the effective date of the variation for 28 days under Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 10(5)."

The reason for this is that Paragraph 10(5) says that a variation does not come into force until, at earliest, 28 days after the Council grant it. This is to allow anyone involved in a variation application (the Licence-Holder, the Police and, where the Licence affects Premises, the Scottish Fire and Rescue Service) to make an appeal to the Sheriff Court. If anyone appeals, the variation is further postponed for the duration of the appeal. This is probably intended to protect the interests of Licence-Holders, Police Scotland and SFRS against variations imposed by the Council, but it also applies to variations requested by the Licence-Holder.

(a) Sequence of events

In the situation where a Licence-Holder/Seller is selling a STL property to a Buyer, neither party wants a delay, so what should happen is this:

1. much more than 28 days before the expected settlement date, the Seller sends the Council an application to Transfer the Licence (see below for an explanation of the advice 'much more than 28 days before');

2. at the same time the Seller pays the Council a fee; it is a private matter between the Seller and the Buyer as to if or how that fee should be apportioned between them; the Council are not involved in this and will expect the Seller to pay the whole fee;

3. We send the application to the Police and SFRS:

"Here is a request for Variation of a licence.

If you have any representations that the proposed variation should not be allowed, please respond in writing within 7 days. If:

(a) *you confirm that you will not be making representations or*

(b) *that period passes without us hearing from you,*

we will grant the variation under Delegated Powers if there are no adverse representations from any other consultee.

In either (a) or (b) we shall assume that there is no need for us to postpone the effective date of the variation for 28 days under Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 10(5).

If you do have adverse representations, please advise. We will copy these to the Applicant. The variation proposal will be considered by the Licensing Committee at a hearing to which the Applicant, the Police, and SFRS will be invited."

4. What happens next depends on whether either the Police or SFRS make any adverse representations.

- If they don't, Delegated Powers are available, and the Clerk grants the Variation to take effect when the Seller advises (probably the Settlement Date)
- If anyone does make adverse representations, Delegated Powers are not available, so the application is placed on the Agenda for a Licensing Committee meeting (see 'much more than 28 days' below);

5. Assuming:

- (a) the Variation is granted (whether by the Clerk or by the Licensing Committee) and
- (b) there is either
 - no appeal, or
 - we can assume both Police and SFRS have given up their right to appeal

we would send something like this to the Seller:

"In relation to your application to vary your Short-Term Let Licence number ... your application for variation has been granted and will take effect on [date].

Your variation is not postponed 28 days or more by Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 10(5) - this rule says that a variation does not come into force until, at earliest, 28 days after the Council grant it. This is to allow anyone involved in a variation application (the Licence-Holder, the Police and, where the Licence affects Premises, the Scottish Fire and Rescue Service) to make an appeal to the Sheriff Court. If anyone appeals, the variation is further postponed for the duration of the appeal. We asked the Police (and if relevant SFRS) to agree to waive that rule, and we have the agreement, so the variation comes into force immediately.

Your licence document needs to be replaced to show the variation, so you should return the 'old' Licence to us and we now issue a 'new' copy of your licence setting out the variation.

We are legally-obliged to give you the following instruction (Paragraph 13(3)):

- *You must return the 'old' Licence to us within 7 days of the date when the variation take effect: Paragraph 13(2)(a);*
- *If you fail without reasonable excuse to do so, you can be prosecuted and on conviction you will be liable to fine of up to £200: Section 7(5)(c)."*

(b) 'much more than 28 days before'

The advice is 'much more than 28 days' because the timescale does not just depend on the 28-day rule, but also on:

- whether or not the Council can make a decision under Delegated Powers (which is quick) or does the case have to wait for a meeting of the Licensing Committee;
- whether or not there is an appeal to the Sheriff Court.

For example:

Suppose that Buyer and Seller agree terms and the Seller applies for a variation. We copy the application to the Police, and they reply with an objection – maybe the Buyer has criminal convictions or maybe the Police have concerns about the source of the Buyer's funds. Because there is an objection, the Clerk cannot use Delegated Powers, which would allow a quick decision. Instead the case must wait for a meeting of the Licensing Committee.

The Committee might grant the Variation, or refuse it.

Grant:

The Police might appeal to the Sheriff Court. We could ask them to say that:

- they accept the Committee decision,
- they are not going to court, and
- they have no objection to the Variation proceeding and the Buyer getting the licence without waiting 28 days.

But since the Police are entitled to wait the full 28 days while they consider their position, there's no guarantee that we could proceed quickly.

Refuse:

That is likely to upset the conveyancing transaction, since if the Buyer can't get the licence he/she might not want to buy the premises.

27. "Energy Performance Certificate" (EPC)

(1) What is an EPC?

EPCs provide information on how energy efficient your property is, how it could be improved, and are valid for 10 years.

The EPC shows:

- the building's 'energy efficiency rating', which gives you an idea of how much fuel bills are likely to be

- the building's 'environmental impact rating', which shows how much the building affects the environment with CO2 emissions

Both ratings are on a scale from A to G, with A being the best. You're also given a 'potential' rating, which is the rating the building could reach if the suggested improvements were made.

If you sell or rent a building (or "building unit") and you do not provide an EPC, or include the energy rating if advertising it, you could be fined a minimum of £500. An EPC should be 'affixed' to the building or building unit (for example, in the boiler or meter cupboard).

The rules requiring EPCs were made in 2008: The law is the Energy Performance of Buildings (Scotland) Regulations 2008 (as amended).

This is not a new requirement introduced by the STL Order and is not something decided by the Council. Buildings and Building Units should have an EPC anyway at the time that they are sold or let.

(2) How do the EPC rules apply to STLs?

All STLs should have an EPC, and any Listing must contain the EPC rating: MC 14(1)(b)):

- [1] "Secondary Letting" STLs are "buildings"
- [2] "Home Sharing" or "Home Letting" STLs are "building units" (defined in the legislation as "a section, floor or apartment within a building which is designed or altered to be used separately").

(3) Electrical Reports are not EPCs

An EPC rating is **not** the same as the electrical Reports a Host needs:

- Electrical Installation Condition Report
- Portable Appliance Testing Report

(4) Who provides the EPC?

EPCs are provided by approved domestic energy assessors. These are commercial businesses, and the Council cannot endorse or recommend a particular supplier.

- [a] There is a list on the Scottish Government website:

<https://www.mygov.scot/energy-performance-certificates>

- [b] To help building owners find a local EPC assessor there is a central register of Approved Organisation members giving contact details at:

<https://www.scottishepcregister.org.uk/assessorsearch>

Enter your postcode to search the register. When we last checked the register listed several assessors in North Ayrshire.

The Licensing Section cannot give advice about the EPC Regulations, and enquirers should contact the Council's Private Sector Housing Team at:

psadvice@north-ayrshire.gov.uk

(5) More information

For more information see the Scottish Government websites:

<https://www.mygov.scot/energy-performance-certificates>

<https://www.gov.scot/policies/energy-efficiency/energy-performance-certificates>

See next FAQ:

"Does my EPC rating affect my Licence Application?"

28. Does my EPC rating affect my Licence Application?

Not directly, but if your Accommodation has a poor rating that might mean that your Accommodation fails to meet the standard of repair which the Law sets for rented accommodation (called the "Repairing Standard"), and that fact could affect the Council's decision to grant or refuse your Licence.

(a) What are EPC ratings?

There is no Licensing rule such as:

"If the EPC rating is under 'E', the Council must refuse a Short-Term Let Licence"

But there **is** a Licensing rule that the Council must refuse a STL Licence if the Accommodation is 'unsuitable'.

(b) How does my EPC rating affect my Licence?

A poor EPC rating is not, of itself, proof that Accommodation is 'unsuitable', but the fact that there is a poor EPC rating might lead to the Council's Housing Department reporting to the Licensing Committee that the Accommodation failed the 'Repairing Standard'.

One of the Mandatory Conditions which apply to STLs is:

"10(2) Where the Premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the Holder of the Licence must ensure that the Premises meet the Repairing Standard."

The Repairing Standard is a standard of repair for rented accommodation set by the Housing (Scotland) Act 2006, Section 13:

<https://www.legislation.gov.uk/asp/2006/1/section/13>

So that report might lead the Licensing Committee to consider refusing a Licence for 2 reasons:

- the premises were unsuitable
- there was 'another good reason' for refusal

These are set out in Civic Government (Scotland) Act 1982, Schedule 1, Paragraphs 5(3)(c) and (d).

(c) Would refusal be avoidable?

Before the Committee made a decision to grant or refuse the Licence, they would (if asked by the Host) consider giving the Host time to carry out repairs, and they might agree to defer a decision on the Licence Application for a few weeks if they thought that the problem was likely to be resolved.

Issues:

1. There is a limit to the Committee's ability to defer because the Law sets time limits (counted from the date the Application was lodged – in STLs the periods are 9 or 12 months), so the Committee cannot defer a decision indefinitely. This could be a particular issue with STLs because we expect to be dealing with a lot of applications in the first two years of the system, so Hosts may find that by the time their cases reach the Licensing there may not be much of the time period left (assuming "Delegated Powers" are not available - for an explanation of this, see FAQ 25 "What will NAC do after I apply?", under the heading (b) "Processing your Application");

2. An issue for any Applicant is that if the Committee do make a decision, and that decision is 'refuse', the Applicant is barred from re-applying for a period (there are several versions of this rule, but the most common bar is 12 months). So sometimes Applicants withdraw their Applications if they think that refusal is likely, so that they can re-apply earlier. That is a decision for them and the Council cannot advise on it;

3. Whatever the Applicant does:

- is refused and later re-applies
- re-applies after the bar, or
- withdraws and re-applies,

the Applicant has to pay a second Licence fee – there is no refund or credit.

(d) What if I don't HAVE an EPC rating?

If you don't have a rating, the Licensing Committee may refuse the Licence on the basis that the fact that you will automatically breach a Mandatory Licence Condition is a good reason for refusing: Mandatory Condition 23 and Civic Government (Scotland) Act 1982, Schedule 1, Paragraph 5(3)(d).

"Mandatory" means "required by Law" – the condition is not imposed by NAC and NAC can't vary it or dispense with compliance - see FAQ 14 "What conditions does a STL Licence have?"

(e) What else is an EPC rating used for?

Although the Council do not say that an EPC rating should be at a particular level, the legislation sets a Mandatory Condition of a STL Licence: the Host must include the EPC rating in any listing or advert (whether electronic or otherwise): see

FAQ 23 "What do I have to put in listings or adverts?"

So the Host needs to have an EPC rating, and make it public however the STL is advertised, for example:

- a Listings Agency
- the Host's own internet site
- a letting agency
- a magazine, brochure or newspaper.

29. We are TRUSTEES: how does that affect a STL Licence?

(a) Who applies?

A single individual Trustee should complete the form on behalf of the Trust, but the Licence Application will be in the name of the Trust and not that person. This is because you want to avoid a "Joint Licence-Holder" situation - the position would then become complicated if one of the Trustees died or resigned.

We don't need signed letters from the other Trustees saying they consent to the application for the Licence.

Part E of the Application form reflects the statutory distinction between

- E.1 The Licence is to be held by a NATURAL PERSON

E.2 The Licence is to be held by a NON-NATURAL PERSON (like a Company or a Partnership)

Your Trust should use E.2 but E.1 is relevant too because E.2 contains the note:

"If there are fewer than 5 Directors or other office bearers, complete Part E.1 (natural person) for each of them, as well as completing Part E.2."

So we are asking for details like name, place and date of birth, address for each person involved in the 'non-natural person', although what is important to you is that the individual Trustees are not 'joint holders' of the Licence. If they were:

- they would each be named in the Licence, which could cause complications later if one of them died or resigned, and
- they would each have to sign the application.

(b) Does the Trust need a 'Day-to-Day Manager' (DDM)?

The position with the Day-to-Day Manager rules as far as Trusts are concerned is not straightforward. Part F (Day-to-Day Manager) of the form includes a table "Can I skip this section?" which again reflects the natural/non-natural distinction. One of the questions is:

"Will I (or any of the other Partners or Trustees) manage the Premises directly, so that if Guests have any inquiries, want services done, or want things fixed, they will contact me (or that person) or a local agency?"

If you can answer 'yes' then you don't need a DDM.

(c) NAC's approach to Trusts

This sets out our view as a Licensing Authority. We are not able to advise anyone on the Trust or its administration.

For Licensing purposes it makes no difference whether a house has two or more joint-owners or two or more Trustees. We will assume, for the purpose of the Licence and unless we are told otherwise, that anyone who says they are a Trustee has the "General powers" set out in the Trusts (Scotland) Acts. These powers include power to lease so – as far as the Licensing Authority are concerned - Trustees are effectively owners. As 'power to grant leases' is an implied power, the power to apply for a Licence would arise by necessary implication. A body of Trustees is usually regarded as the 'owner' of the property. Third-parties (for example the Council) are entitled to assume that an action by one Trustee to grant leases of any duration is authorised unless the third-party actually knows that the Trustee's acts are at variance with the terms or purposes of the Trust (Trusts (Scotland) Act 1921, Section 4(1)(c) and Trusts (Scotland) Act 1961, Section 2(1)).

(d) Other information

Note that:

- Our advice is only related to Trusts established under the Law of Scotland – other parts of the United Kingdom have different laws about Trusts. These distinctions are unlikely to matter to a Scottish Licensing Authority, but they might matter to the administration of the Trust.

- if you have any questions about how applying for a Licence may affect the Trust or its administration you should take independent legal advice.

30. What information is public?

It is a statutory requirement that the Licensing Authority maintain a public register of STL Licences. This is part of the "Licensing Register" which can be accessed from the Licensing Authority's webpage:

<https://www.north-ayrshire.gov.uk/business-licensing/licensing>

The content of the register is set by the STL Order.

Listings have to show the Licence Number. When you apply, we will allocate your Application a reference number – see:

FAQ 23 – "What do I have to put in listings or adverts?"

31. Where can I find more information?

The STL licensing scheme is based on the Civic Government (Scotland) Act 1982, which is a common code for a range of business activities. It already licensed many things, such as taxi and private hire cars, their drivers and booking offices, street traders, markets, public entertainment, second-hand dealers, and metal dealers. The Scottish Parliament added STL to that list.

The 1982 Act is published on a free Government Internet site:

<https://www.legislation.gov.uk/ukpga/1982/45/contents>

We often refer to **Schedule 1** ("Licensing—Further Provisions as to the General System") which is set out at the end of the 1982 Act. This sets out the procedural rules for most Licensing functions under the 1982 Act, and the direct link to Schedule 1 is:

<https://www.legislation.gov.uk/ukpga/1982/45/Schedule/1>

The Order which adds STL Licensing to the 1982 Act is:

The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, No. 32

The Order is published on the same Internet site:

<https://www.legislation.gov.uk/ssi/2022/32/contents/made>

This Order is referred to in this document as the "STL Order". The new Licensing system applies throughout North Ayrshire.

The STL Order introduced a licensing scheme for STL and requires all STL to be licensed. Prior to the introduction of the 2022 Order, there was no requirement to license STLs in Scotland.

The Scottish Government website has information on STLs:

Part 1: Guidance for Hosts and Operators

This is at:

<https://www.gov.scot/publications/short-term-lets-scotland-licensing-scheme-part-1-guidance-hosts-operators-2>

You may find this helpful, especially "Annex B: Application checklist".

Part 2: Supplementary Guidance for Licensing Authorities, Letting Agencies and Platforms

This is at:

<https://www.gov.scot/publications/short-term-lets-scotland-licensing-scheme-part-2-supplementary-guidance-licensing-authorities-letting-agencies-platforms-2>

== ANNEXES in the LPS ==

Annex A - Definitions

Words which are defined in legislation are underlined:

“1982 Act”

means the Civic Government (Scotland) Act 1982,

“Accommodation”

includes the whole or any part of a Premises,

“Aparthotel”

means a residential building containing Serviced Apartments where—

(a) the whole building is owned by the same person,

- (b) a minimum number of 5 Serviced Apartments are managed and operated as a single business,
- (c) the building has a shared entrance for the Serviced Apartments, and
- (d) the Serviced Apartments do not share an entrance with any other flat or residential unit within the building,

"Bothy"

means a building of no more than two storeys which—

- (a) does not have any form of—
 - (i) mains electricity,
 - (ii) piped fuel supply, and
 - (iii) piped mains water supply,
- (b) is 100 metres or more from the nearest "public road" (within the meaning of section 151 of the Roads (Scotland) Act 1984), and
- (c) is 100 metres or more from the nearest habitable building,

"Caravan"

means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include—

- (a) any railway rolling stock which is for the time being on rails forming part of a railway system, or
- (b) any tent;

Note: The definition of 'Caravan' in the 1960 Act is qualified by the Caravan Sites Act 1968, Section 13 ("Twin-unit Caravans") and further amended by "The Caravan Sites Act 1968 (Amendment of Definition of Caravan) (Scotland) Order 2019 No. 295".

There is no such thing as a 'Camp Site Licence': a land-owner does not need a 1960 Act Licence to make land available for the sole purpose of pitching tents (although the land-owner might need Planning Permission under separate legislation: the Town and Country Planning (Scotland) Act 1997). The Licensing Committee do not deal with Planning Permission and you should contact NAC Planning – the main NAC website has a 'Planning' link.

"Certificate of Lawfulness of Use or Development"

means a certificate under section 150 or 151 of the Town and Country Planning (Scotland) Act 1997.

"Civic Licensing Standards Officer"

has the definition in section 45G of the 1982 Act;

"Commercial Consideration"

includes—

- (a) money,
- (b) a benefit in kind (such as provision of a service, or reciprocal use of Accommodation),

"Councillors' Code of Conduct"

means the Code of Conduct published by the Standards Commission for Scotland under the Ethical Standards in Public Life etc. (Scotland) Act 2000.

"Electrical Installation Condition Report"

means a report containing the following information—

- (a) the date on which the inspection was carried out,
- (b) the address of the Premises inspected,
- (c) the name, address and relevant qualifications of the person who carried out the inspection,
- (d) a description, and the location, of each installation, fixture, fitting and appliance inspected,
- (e) any defect identified,
- (f) any action taken to remedy a defect,

"Energy Performance Certificate"

means a certificate which complies with regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008,

"Excluded Accommodation"

means Accommodation described in Paragraph 1 of Schedule 1 to the STL Order;

"Excluded Tenancy"

means a tenancy described in Paragraph 2 of Schedule 1 to the STL Order;

“Gas Safety Report”

means a report containing the following information—

- (a) the date on which the appliance or flue was checked,
- (b) the address of the Premises at which the appliance or flue is installed,
- (c) a description of and the location of each appliance or flue checked,
- (d) any safety defect identified,
- (e) any remedial action taken,
- (f) confirmation that the check undertaken complies with the requirements of an examination of—
 - (i) the effectiveness of any flue,
 - (ii) the supply of combustion air,
 - (iii) subject to head (iv), its operating pressure or heat input or, where necessary, both,
 - (iv) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,
 - (v) its operation so as to ensure its safe functioning,
- (g) the name and signature of the individual carrying out the check, and
- (h) the registration number with which that individual, or that individual’s employer, is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998,

“Guest”

means any person who occupies Accommodation under a Short-Term Let (Note: "Where the Accommodation is let to more than one person under a Short-Term Let, references in this Order to the Guest are to any one of those persons." : STL Order, Article 2(2)).

“Holder of the Licence”

means any person to whom a Short-Term Let Licence has been granted or jointly granted,

“Home Letting”

means a Short-Term Let consisting of the entering into of an agreement for the use, while the Host is absent, of Accommodation which is, or is part of, the Host’s only or principal home,

"Home Sharing"

means a Short-Term Let consisting of the entering into of an agreement for the use, while the Host is present, of Accommodation which is, or is part of, the Host's only or principal home,

"Host"

means a person who is the owner, tenant, or person who otherwise exercises control over occupation and use, of the Accommodation which is the subject of a Short-Term Let,

"Hostel"

means a building, other than a dwellinghouse, in which there is provided for persons generally or for any class or classes of persons—

- (a) residential Accommodation, and
- (b) either or both—
 - (i) meals,
 - (ii) cooking facilities,

"House"

- (a) means any living accommodation which is, or which is capable of being, occupied as a separate dwelling (other than a Mobile Home or any other living accommodation which is not a building), and
- (b) includes—
 - (i) any part of the living accommodation (including its structure and exterior) which is, and any common facilities relating to it which are, owned in common with others, and
 - (ii) any yard, garden, garage, out-house or other area or structure which is, or which is capable of being, occupied or enjoyed together with the living accommodation (solely or in common with others),

(Note: this is the definition of "House" in Housing (Scotland) Act 2006, Section 194)

"Immediate Family Member"

A person ("A") is an Immediate Family Member of another person ("B") if A is—

- (a) in a Qualifying Relationship with B,
- (b) a Qualifying Relative of B,

- (c) a Qualifying Relative of a person who is in a Qualifying Relationship with B, or
- (d) in a Qualifying Relationship with a Qualifying Relative of B.

"Licensing Authority"

North Ayrshire Council are the "Licensing Authority" under the Civic Government (Scotland) Act 1982 and the STL Order,

"Mobile Home"

Has the meaning set out in the Mobile Homes Act 1983, Section 5 (which applies the definition of "Caravan" in the Caravan Sites and Control of Development Act 1960; see The Mobile Homes Act 1983 (Amendment of Schedule 1) (Scotland) Order 2013 No. 219).

"Police Service of Scotland" ("Police Scotland")

Established under the Police and Fire Reform (Scotland) Act 2012.

"Personal Care"

has the same meaning as in Paragraph 20 of Schedule 12 of the Public Services Reform (Scotland) Act 2010,

"Premises"

means the Accommodation which is the subject of an application for a short-term licence or the subject of a short-term licence

(Note: the "licence" meant here is:

- *the permission given by the Host to allow the Guest to use the Accommodation, and **not***
- *the "STL Licence" granted by the Council)*

"Qualifying Relationship"

Two people are in a Qualifying Relationship with one another if they are—

- (i) married to each other,
- (ii) in a civil partnership with each other, or
- (iii) living together as though they were married,

"Qualifying Relative"

This means a parent, grandparent, child, grandchild or sibling:

- two people are to be regarded as siblings if they have at least one parent in common,
- a person's stepchild is to be regarded as the person's child,
- a person ("C") is to be regarded as the child of another person ("D"), if C is being or has been treated by D as D's child.

"Refuge"

means Accommodation used wholly or mainly for persons who have been subject to any incident or pattern of incidents, of—

- (a) controlling, coercive or threatening behaviour,
- (b) physical violence,
- (c) abuse of any other description (whether physical or mental in nature), or
- (d) threats of any such violence or abuse.

"Repairing Standard"

means the steps which the Holder of the Licence is required to take to comply with the obligations placed on the holder by Chapter 4 of Part 1 of the Housing (Scotland) Act 2006,

"Scottish Fire and Rescue Service" ("SFRS")

Established under the Fire (Scotland) Act 2005 and the Police and Fire Reform (Scotland) Act 2012,

"Serviced Apartment"

means a flat or residential unit in respect of which—

- (a) services are provided to Guests (such as housekeeping, a telephone desk, reception, or laundry),
- (b) each flat or unit contains its own washing, cooking and dining facilities separate from each of the other flats or units, and
- (c) there is a management system in place to prevent anti-social behaviour and to impose limits in respect of the maximum occupancy of the flats or units,

"Schedule 1"

means Schedule 1 to the Civic Government (Scotland) Act 1982 ("the 1982 Act"). Schedule 1 is set out at the end of the 1982 Act and contains most of the procedural rules for Licences, such as: how to apply for a Licence; how the Council deal with the Application; and what action the Council can take later to vary, suspend or revoke a Licence.

"Short-Term Let" (or "STL")

means the use of residential Accommodation provided by a Host in the course of business to a Guest, where **all** of the following criteria are met—

- (a) the Guest does not use the Accommodation as their only or principal home,
- (b) the Short-Term Let is entered into for Commercial Consideration,
- (c) the Guest is not—
 - (i) an Immediate Family Member of the Host,
 - (ii) sharing the Accommodation with the Host for the principal purpose of advancing the Guest's education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or
 - (iii) an owner or part-owner of the Accommodation,
- (d) the Accommodation is not provided for the principal purpose of facilitating the provision of work or services by the Guest to the Host or to another member of the Host's household,
- (e) the Accommodation is not Excluded Accommodation (see Schedule 1), and
- (f) the Short-Term Let does not constitute an Excluded Tenancy (see Schedule 1),

"Short-term Let Control Area"

This has the meaning provided in section 26B of the Town and Country Planning (Scotland) Act 1997.

(Note: The 1997 Act relates to the Planning legislation, not to the Licensing legislation, and it is not within the powers of the Licensing Authority to designate a STLCA or to vary a designation.)

"Site Notice"

When a person applies to the Council for a Licence involving the use of Premises like a house, they have to display a public "Site Notice" at or near the Premises. Often Site Notices are tied to lamp-posts or railings, or pinned to a door. The Site Notice summarises the proposal, and the Site Notice is displayed so that the public, such as neighbours, are alerted to the proposal, and to their chance to state objections or representations to the Council about the proposal. The Site Notice must be displayed for at least 21 days, and afterwards the Licence Applicant must give the Council a Certificate confirming that this display had happened.

"STL Order"

This means the Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order, 2022 No. 32. This is the Order which extended the Licensing rules in the Civic Government (Scotland) Act 1982 (which already covers several activities, including the

operation and driving of Taxis and Private Hire Cars, Street Trading and Markets, and Public Entertainment) to Short-Term Lets.

“Secondary Letting”

means a Short-Term Let consisting of the entering into of an agreement for the use of Accommodation which is not, or is not part of, the licence holder’s only or principal home,

“Student Accommodation”

means residential Accommodation which has been built or converted predominantly for the purpose of being provided to students.

“Student Residential Tenancy”

means a tenancy—

- (a) the purpose of which is to confer on the tenant the right to occupy the let property while the tenant is a student, and
- (b) to which sub-Paragraph (2) or (3) of Paragraph 5 of Schedule 1 (tenancies which cannot be Private Residential Tenancies) of the Private Housing (Tenancies) (Scotland) Act 2016 applies,

“Type of Short-Term Let”

means one of the following purposes—

- (a) Secondary Letting,
- (b) Home Letting,
- (c) Home Sharing, or
- (d) Home Letting and Home Sharing.

“Tolerable Standard”

This is set by the Housing (Scotland) Act 1987, Section 86. The requirements are set by the Scottish Parliament and can be varied by the Scottish Government. The standard is currently:

- (a) the House must be structurally stable;
- (b) the House must be substantially free from rising or penetrating damp;
- (c) the House must have satisfactory provision for natural and artificial lighting, for ventilation and for heating;
- (ca) the House must have satisfactory thermal insulation;

- (d) the House must have an adequate piped supply of wholesome water available within the House;
- (e) the House must have a sink provided with a satisfactory supply of both hot and cold water within the House;
- (f) the House must have a water closet or waterless closet available for the exclusive use of the occupants of the House and suitably located within the House;
- (fa) the House must have a fixed bath or shower and a wash-hand basin, each provided with a satisfactory supply of both hot and cold water and suitably located within the House;
- (g) the House must have an effective system for the drainage and disposal of foul and surface water;
- (ga) the electricity supply must comply with the relevant requirements in relation to "the electrical installation" for the purposes of that supply; ("the electrical installation" is the electrical wiring and associated components and fittings, but excludes equipment and appliances);
- (h) the House must have satisfactory facilities for the cooking of food within the House;
- (i) the House must have satisfactory access to all external doors and outbuildings;
- (j) the House must have satisfactory equipment installed for detecting, and for giving warning of, fire or suspected fire;
- (k) the House must have satisfactory equipment installed for detecting, and for giving warning of, carbon monoxide present in a concentration that is hazardous to health.

“Unique Licence Number”

means a unique number which—

- (a) is assigned to each application or licence, and
- (b) contains a number or letters which—
 - (i) identifies the Licensing Authority, and
 - (ii) is used in every licence number assigned by the Licensing Authority.

Annex C - Mandatory Licence Conditions

These are set out in Schedule 3 to the STL Order and apply automatically to all STL Licences.

1. Agents

1. 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.

2. Type of licence

2. The Holder of the Licence may only offer the Type of Short-Term Let for which the licence has been granted.

Note: “Type of Short-Term Let”

This is defined in Paragraph 18 below and means one of the following purposes—

- (a) Secondary Letting,
- (b) Home Letting,
- (c) Home Sharing, or
- (d) Home Letting and Home Sharing.

Further definitions in Paragraph 18:

“Secondary Letting”

*"means a Short-Term Let consisting of the entering into of an agreement for the use of Accommodation which is **not**, or is not part of, the licence holder's only or principal home"*

“Home Letting”

*"means a Short-Term Let consisting of the entering into of an agreement for the use, while the Host is **absent**, of Accommodation which is, or is part of, the Host's only or principal home"*

“Home Sharing”

*"means a Short-Term Let consisting of the entering into of an agreement for the use, while the Host is **present**, of Accommodation which is, or is part of, the Host's only or principal home"*

3. Fire safety

3. The Holder of the Licence must ensure the Premises has satisfactory equipment installed for detecting, and for giving warning of—

- (a) fire or suspected fire, and
- (b) the presence of carbon monoxide in a concentration that is hazardous to health.

4. [Fire safety - furnishings]

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.

5. Gas safety

5. Where the Premises has a gas supply—

- (a) the Holder of the Licence must arrange for an annual gas safety inspection of all gas pipes, flues and appliances in the Premises,
- (b) if, after an annual inspection, any appliance does not meet the required safety standard, the Holder of the Licence must not allow a Short-Term Let of the Premises until the works necessary to bring the appliance to the required safety standard have been carried out.

6. Electrical safety

6. Where there are electrical fittings or items within the parts of the Premises which are for Guest use, or to which the Guests are permitted to have access, the Holder of the Licence must—

- (a) ensure that any electrical fittings and items are in—
 - (i) a reasonable state of repair, and
 - (ii) proper and safe working order,
- (b) arrange for an electrical safety inspection to be carried out by a Competent person at least every five years or more frequently if directed by the Competent person,
- (c) ensure that, following an electrical safety inspection, the Competent person produces an Electrical Installation Condition Report on any fixed installations,
- (d) arrange for a Competent person to—
 - (i) produce a Portable Appliance Testing Report on moveable appliances to which a Guest has access, and
 - (ii) date label and sign all moveable appliances which have been inspected.

7. [meaning of "Competent"]

In determining who is Competent, the Holder of the Licence must have regard to guidance issued by the Scottish Ministers under section 19B(4) of the Housing (Scotland) Act 2006.

8. Water safety: private water supplies

8. Where the Premises are 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.

9. Water safety: legionella

9. The Holder of the Licence must assess the risk from exposure to legionella within the Premises, whether or not the Premises are served by a private water supply.

10. Safety & repair standards

10.—(1) The Holder of the Licence must take all reasonable steps to ensure the Premises are safe for residential use.

(2) Where the Premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the Holder of the Licence must ensure that the Premises meet the Repairing Standard.

11. Maximum Occupancy

11. The licence holder must ensure that the number of Guests residing on the Premises does not exceed the number specified in the licence.

12. Information to be displayed

12. The Holder of the Licence must make the following information available within the Premises in a place where it is accessible to all Guests—

- (a) a certified copy of the licence and the licence conditions,
- (b) fire, gas and electrical safety information,
- (c) details of how to summon the assistance of emergency services,
- (d) a copy of the Gas Safety Report,
- (e) a copy of the Electrical Installation Condition Report, and
- (f) a copy of the Portable Appliance Testing Report.

Note: in addition to the Mandatory Conditions which apply throughout Scotland, in North Ayrshire there is an additional condition: the Host must give Guests information about waste disposal etc.. See Part 10 ("What conditions does a STL Licence have?", Section (b) "Standard Conditions", heading "The first exception".

13. Planning Permission

13. Where the Premises is in a Short-Term Let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997(24) (“the 1997 Act”), the Holder of the Licence must, where the use of the Premises for a Short-Term Let requires Planning Permission under the 1997 Act, ensure that either—

- (a) an application has been made for Planning Permission under the 1997 Act and has not yet been determined, or
- (b) Planning Permission under the 1997 Act is in force.

14. Listings

14.—(1) The Holder of the Licence must ensure that any listing or advert (whether electronic or otherwise) for the Short-Term Let of the Premises includes—

- (a) the licence number, and
- (b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the Premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008.

(2) The Holder of the Licence must ensure that any listing or advert (whether electronic or otherwise) for the Short-Term Let of the Premises is consistent with the terms of the Short-Term Let Licence.

15. Insurance

15. The Holder of the Licence must ensure that there is in place for the Premises—

- (a) valid buildings insurance for the duration of the licence, and
- (b) valid public liability insurance for the duration of each Short-Term Let agreement.

16. Payment of fees

16. The Holder of the Licence must pay any fees due to the Licensing Authority in respect of the licence on demand.

17. False or misleading information

17. The Holder of the Licence must not provide any false or misleading information to the Licensing Authority.

18. Interpretation

18. In this Schedule—

“Electrical Installation Condition Report”

means a report containing the following information—

- (a) the date on which the inspection was carried out,
- (b) the address of the Premises inspected,
- (c) the name, address and relevant qualifications of the person who carried out the inspection,
- (d) a description, and the location, of each installation, fixture, fitting and appliance inspected,
- (e) any defect identified,
- (f) any action taken to remedy a defect,

“Energy Performance Certificate”

means a certificate which complies with regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008,

“Gas Safety Report”

means a report containing the following information—

- (a) the date on which the appliance or flue was checked,
- (b) the address of the Premises at which the appliance or flue is installed,
- (c) a description of and the location of each appliance or flue checked,
- (d) any safety defect identified,
- (e) any remedial action taken,
- (f) confirmation that the check undertaken complies with the requirements of an examination of—
 - (i) the effectiveness of any flue,
 - (ii) the supply of combustion air,
 - (iii) subject to head (iv), its operating pressure or heat input or, where necessary, both,
 - (iv) if it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both), its combustion performance,
 - (v) its operation so as to ensure its safe functioning,
- (g) the name and signature of the individual carrying out the check, and
- (h) the registration number with which that individual, or that individual’s employer, is registered with a body approved by the Health and Safety Executive for

the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998,

“Holder of the Licence”

means any person to whom a Short-Term Let Licence has been granted or jointly granted,

“Home Letting”

means a Short-Term Let consisting of the entering into of an agreement for the use, while the Host is absent, of Accommodation which is, or is part of, the Host’s only or principal home,

“Home Sharing”

means a Short-Term Let consisting of the entering into of an agreement for the use, while the Host is present, of Accommodation which is, or is part of, the Host’s only or principal home,

“Premises”

means the Accommodation which is the subject of an application for a Short-Term Licence or the subject of a Short-Term Licence,

“Repairing Standard”

means the steps which the Holder of the Licence is required to take to comply with the obligations placed on the holder by Chapter 4 of Part 1 of the Housing (Scotland) Act 2006,

“Secondary Letting”

means a Short-Term Let consisting of the entering into of an agreement for the use of Accommodation which is not, or is not part of, the licence holder’s only or principal home,

“Short-Term Let”

has the same meaning as in article 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-Term Lets) Order 2022,

“Short-Term Let Licence”

means a licence for a Short-Term Let, and

“Type of Short-Term Let”

means one of the following purposes—

- (a) Secondary Letting,
- (b) Home Letting,

- (c) Home Sharing, or
- (d) Home Letting and Home Sharing.

Annex L - What documents do I have to give Guests?

In this Annex, "MC" means the Mandatory Conditions that automatically apply to a STL Licence. These are in Schedule 3 to the STL Order.

Note: in addition to the Mandatory Conditions which apply throughout Scotland, in North Ayrshire there is an additional condition: the Host must give Guests information about waste disposal etc.. See Part 10 ("What conditions does a STL Licence have?", Section (b) "Standard Conditions", heading "The first exception".

NAC Housing have a www "Advice for private Landlords" at:

<https://www.north-ayrshire.gov.uk/housing/private-sector-housing-advice/advice-for-private-landlords>

This has several links to other documents and webpages that you may find useful.

MC 12 is:

"12. The Holder of the Licence must make the following information available within the Premises in a place where it is accessible to all Guests—

- (a) a certified copy of the licence and the licence conditions,*
- (b) fire, gas and electrical safety information,*
- (c) details of how to summon the assistance of emergency services,*
- (d) a copy of the Gas Safety Report,*
- (e) a copy of the Electrical Installation Condition Report, and*
- (f) a copy of the Portable Appliance Testing Report."*

When you apply for the grant or renewal of a Licence you will be asked to confirm that your Premises comply with the obligations to have safety installations and regular checks.

Non-compliance with any obligation will be regarded a major concern and:

- applications which do not confirm compliance with these requirements will be considered for refusal, and

- Premises with Licences where these requirements have not been fulfilled will be considered for Enforcement Action, which may involve the revocation of the Licence.

Please be aware that we can request copies of the relevant certificates at any time.

MC 3: Fire and smoke heat detection, and Carbon Monoxide detection

Mandatory Condition 3 is:

"3. The Holder of the Licence must ensure the Premises has satisfactory equipment installed for detecting, and for giving warning of—

- (a) fire or suspected fire, and*
- (b) the presence of carbon monoxide in a concentration that is hazardous to health."*

MC 3(a): Fire and smoke detection, and Carbon Monoxide (CO) detection

There should be at least:

- one functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes (normally the living room/lounge),
- one functioning smoke alarm in every circulation space on each storey, such as hallways and landings, or in main room if no landing in upper storey,
- one heat alarm in every kitchen,
- all alarms should be ceiling mounted, and
- all alarms should be interlinked.

Mains operated alarms (with battery backup) are permitted, as are tamper proof, sealed, long-life lithium battery alarms. The expiry date should be visible on each alarm.

For further detailed information please see <https://www.gov.scot/publications/fire-safety-guidance-private-rented-properties/>

Please provide clarification and confirmation in relation to this requirement.

MC 3(b): Carbon monoxide (CO) detection

This applies if your rental property or properties have appliances that use carbon-based fuel.

Hosts have an obligation to ensure that a detection system is installed in all properties you rent where there is:

- fixed combustion appliance (excluding an appliance used solely for cooking) or
- a fixed combustion appliance in an inter-connected space, for example, an integral garage
- a combustion appliance necessarily located in a bathroom (advice would be to locate it elsewhere) - the CO detector should be sited outside the room as close to the appliance as possible

CO detectors should be powered by a battery designed to operate for the working life of the detector. The detector should incorporate a warning device to alert the users when its working life is due to expire and should be replaced on or before the expiry date. Hard wired mains operated CO detectors with fixed wiring (not plug in types) may be used as an alternative, provided they are fitted with a sensor failure warning device. For further information please visit <https://www.gov.scot/publications/carbon-monoxide-alarms-in-private-rented-properties-guidance/>

Please provide clarification and confirmation in relation to this requirement.

MC 4: Furniture and Furnishings (Fire Safety)

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.

MC 5: Gas safety

MC 5 is:

"5. Where the Premises has a gas supply—

(a) the Holder of the Licence must arrange for an annual gas safety inspection of all gas pipes, flues and appliances in the Premises,

(b) if, after an annual inspection, any appliance does not meet the required safety standard, the Holder of the Licence must not allow a Short-Term Let of the Premises until the works necessary to bring the appliance to the required safety standard have been carried out."

As a Host you are legally required to commission a Gas Safe registered engineer to carry out an annual gas safety check at your rental property / properties and issue a Gas Safety Certificate (CP12 Certificate). By law a copy of the Gas Safety Certificate should be given to your Guests

A Gas Safety Certificate confirms that the gas installation is safe, and all gas appliances are safe and free from danger. A regular gas safety check can ensure there is no risk to the occupants due to the gas supply, and that all pipework, flues and appliances are installed and maintained correctly.

MC 6: Electrical safety

You have to give Guests both:

- a copy of the Electrical Installation Condition Report, and
- a copy of the Portable Appliance Testing Report ("PAT check")

There is a document to download on the Scottish Government website: "Electrical installations and appliances in private rented properties: guidance":

<https://www.gov.scot/publications/electrical-installations-and-appliances-private-rented-properties/>

MC 6(a): Electrical Installation Condition Report

As a Host you are legally required to have a current Electrical Installation Condition Report (EICR) or Electrical Installation Certificate (EIC) for all your rental properties that use electricity.

A copy of the most recent electrical safety inspection reports must be provided to Guests.

As a Host you are required to ensure that regular electrical safety inspections are carried out and EICRs / EICs are completed by a suitably competent registered electrician, and that anything that fails to pass the inspection is replaced or repaired immediately.

The word 'competent' is itself defined by Condition 7, referring to Scottish Government Guidance set out on the Scottish Government website:

<https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2016/12/electrical-installations-and-appliances-private-rented-properties/documents/guidance-electrical-installations-appliances-pdf/guidance-electrical-installations-appliances-pdf/govscot%3Adocument/SG%2BSTATUTORY%2BGUIDANCE%2BON%2BELECTRICAL%2BINSTALLATIONS%2BAND%2BAPPLIANCES%2BIN%2BPRIVATE%2BRENTED%2BPROPERTY%2B%2528updated%2B15%2BFeb%2B2021%2529.pdf>

The Scottish Government inspection standards were published years ago, not in relation to Short-Term Let Licensing but instead in relation to rented houses used as homes (covered by either the Landlord Registration scheme or the Houses in Multiple Occupation Licensing Scheme). This is why the guidance frequently refers to 'landlords'. The standards were later extended to 'Hosts' of accommodation covered by the 'Short-Term Let Licensing Scheme'. The standards were set under Housing (Scotland) Act 2006, Section 19B(4) and these were adopted for STLs (see definition of 'competent' in Condition 7, which refers to the Guidance under the 2006 Act, Section 19B(4)).

MC 6(b): Portable Appliance Testing Report ("PAT check")

If you have supplied any movable electrical appliances, you need a PAT check (appliances belonging to the Guest do not need a PAT check). PAT checks cover:

- portable equipment and
- larger appliances and equipment fixed to a surface or wall.

Items that require PAT testing in a property include:

- Fridges
- Ovens
- Microwaves
- Kettles
- Toasters
- Dishwashers
- Washing machines
- Tumble dryers
- Vacuum cleaners
- Televisions
- Lamps
- Heated towel rails
- Extension leads

PAT checks must also be done at least every 5 years but if the electrician recommends more frequent checks then the Host should follow their advice on frequency.

MC 8: Water safety: private water supplies

MC 8 is:

"8. Where the Premises are 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."

This condition does not apply if Scottish Water supply the rental property. Approximately 97% of properties in Scotland are supplied by Scottish Water.

However, if your rental property uses a private water supply for drinking water then you should be aware of the 2017 Regulations. The main objective of the regulation is to ensure the provision of clean, safe drinking water and to deliver significant health benefits to those using private water supplies.

For further information please visit <http://dwqr.scot/private-supply/regulatory-information/>

ScotGov have a www: "Risk assessing your private water supply":

<https://www.mygov.scot/risk-assess-private-water-supply>

Please clarify whether your property / properties have a public or private water supply, and if it is a private water supply confirm that you are aware of and comply with the relevant Regulations.

MC 9: Water safety: Legionella

MC 9 is:

"9. The Holder of the Licence must assess the risk from exposure to legionella within the Premises, whether or not the Premises are served by a private water supply."

Legionnaires' disease is a potentially fatal form of pneumonia caused by the inhalation of small droplets of contaminated water containing Legionella. All water systems can provide an environment where Legionella may grow and water storage tanks are only one area of possible risk.

Hosts have a duty to ensure a Legionella risk assessment is carried out periodically on their property or properties to help guard their Guests against any risk of getting the illness from contaminated water. You should give us your Risk Assessment when you apply for your Licence but you don't then we may not make a decision on your Application until we see it.

There is a risk assessment template on our website and there are others on the internet.

MC 10: Safety & repair standards

MC 10 is:

"10(1) The Holder of the Licence must take all reasonable steps to ensure the Premises are safe for residential use.

(2) Where the Premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the Holder of the Licence must ensure that the Premises meet the Repairing Standard."

See LPS Annex B for an explanation of the term "Repairing Standard".

(a) Caravans and Mobile Homes

It doesn't apply to Caravans and Mobile Homes (see FAQ 2 "What is a "Short-Term Let"?", Section (b) for an explanation)

It does apply to other STLs.

(b) There is no '31-day exemption'

The 'Repairing Standard' rules used to not apply to 'holiday' tenancies not exceeding 31 days but that exception was removed by the STL Order, so now a house let for a week at a time must meet the Repairing Standard.

The Law is the Housing (Scotland) Act 2006, Section 12 ("Tenancies to which repairing standard duty applies") which is at

<https://www.legislation.gov.uk/asp/2006/1/part/1/chapter/4>

This originally said that the Repairing Standard did not apply to 'holiday' tenancies not exceeding 31 days (Section 12(1)(f)) but that exception was removed by the STL Order.

(c) What else is covered?

The "Repairing Standard" includes common areas, like closes and gardens:

Hosts who own flat/tenement rental properties are required to be aware of their responsibilities for repairing common areas, such as:

- the ground (solum) on which your building stands (but not always the garden)
- the foundations
- the external walls - but individual owners are responsible for the part of these walls that lies in their flat
- the roof (including the rafters)
- other structural parts of the building such as beams, columns and load bearing walls
- the close and stairs (when they are not mutual)
- staircases in blocks of flats.

(d) Tenements

To find out exactly what applies in your building, you need to read your Title Deeds. You can source a copy of your title deeds at <https://scotlis.ros.gov.uk>

Where a property factor is employed to take charge of repairs and maintenance of a block of flats or a tenement it is important to note that the ultimate responsibility regarding this obligation still sits with the Host.

MC 15: Insurance

MC 15 is:

"15. The Holder of the Licence must ensure that there is in place for the Premises—

(a) valid buildings insurance for the duration of the licence, and

(b) valid public liability insurance for the duration of each Short-Term Let agreement."

If you rent out a property in Scotland that is a flat or tenement you are required to have appropriate building insurance. Tenements are defined as buildings or parts of buildings which comprise of two or more flats, at least two of which are divided from each other horizontally.

The Tenements (Scotland) Act 2004, Section 18, provides that in a tenement:

- *each owner must effect and keep in force a contract of insurance against the 'Prescribed Risks' (which are set by regulation - see below) for the reinstatement value of that owner's flat and any part of the tenement building attaching to that flat as a pertinent; and*
- *any other owner may by notice in writing request the owner of a flat in the tenement to produce evidence within 14 days of that insurance and payment of the premiums.*

In a tenement many owners contribute together to maintain a Common Insurance Policy, but where there is no Common Insurance Policy the statutory duty falls on each individual owner.

Tenement insurance - the 'Prescribed Risks'

These are set out in the Schedule to The Tenements (Scotland) Act 2004 (Prescribed Risks) Order 2007 No. 16 (in force 1st May 2007):

"Prescribed Risks

The risk of damage to a Flat or any part of a Tenement building attaching to that Flat as a pertinent caused by:

- (a) fire, smoke, lightning, explosion, earthquake;*
- (b) storm or flood;*
- (c) theft or attempted theft;*
- (d) riot, civil commotion, labour or political disturbance;*
- (e) malicious persons or vandals;*
- (f) subsidence, heave or landslide;*
- (g) escape of water from water tanks, pipes, apparatus and domestic appliances;*
- (h) collision with the building caused by any moving object originating outside the building;*
- (i) leakage of oil from fixed heating installations; and*
- (j) accidental damage to underground services."*