



Short Term Accommodation Association

Policy Paper

The Future of Short-Term Lets Regulation in Scotland

This is a joint paper from the STAA which represents our proactive policy position for short-term rental regulations in Scotland.

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Introduction

The UK Short Term Accommodation Association (STAA) was founded in March 2017 with a clear purpose in mind: ensuring greater cooperation to tackle common industry challenges and seizing shared opportunities in this growing sector. To this end, we are seeking to work with all stakeholders towards a stable and supportive regulatory environment. **This paper from the STAA which represents our proactive policy position for short-term rental regulations in Scotland.**

Businesses, individuals and communities across Scotland benefit from the economic value of short-term letting. Professional short-term rentals contributed £723 million of economic activity in 2016-17 in Scotland.¹ STAA members and the wider industry help to generate:

- Increased consumer choice and more accommodation supply for travellers
- A more optimal use of space
- Added income for individuals and governments
- Local business growth and employment opportunities
- A more competitive tourism industry

However, we understand that across Scotland there is a balance to be struck between communities facing local challenges and areas which want to increase tourism footfall. **To ensure the industry continues to act in the long-term benefit for communities across the country, we are committed to engaging in discussions around the future regulation of the sector.** We are proud that our entire membership - including the likes of Airbnb, HomeAway/Expedia, Airsorted and Spohost - has committed to the regulatory proposals outlined in this paper.

We support the approach and programme of stakeholder engagement outlined by the Scottish Government's Short-Term Lets Delivery Group, which is expected to report in September 2019, but we have a number of concerns relating to Section 11B, previously Amendment 45, of the Planning (Scotland) Bill. **Section 11B is costly, difficult to enforceable and lacks an evidence base**, adding to the complexity and financial burden of the Planning Bill overall. According to the Scottish Government's Financial Memorandum, it may cost planning authorities up to £2.7million a year to enforce rules effectively, creating a huge burden for local councils and communities across Scotland². It also disincentivises people who want to share their home occasionally, with each planning application costing £401 to the individuals with no guarantee of success, and costing people who want to engage in this activity up to £4.6m per year³. Enclosed within this paper is context and scope of short-term rental regulation in Scotland⁴.

As a sector, we are keen to continue to pursue an open dialogue with policymakers to pursue clear, fair and simple regulation for short-term rentals in Scotland. We urge policymakers to create an alternative way forward which balances the needs of local government, the sector and communities.

¹ Far More than Just Houses (2018), Frontline & Association of Scotland's Self Caterers

² Appendix 1 - Financial Memorandum of the Planning (Scotland) Bill - Appendix 2

³ Ibid

⁴ Appendix 2 - Key data on short term rentals, also attached

Position

We want to collaborate with policymakers to advocate for clear legal frameworks that provide simple, practical and enforceable solutions. Setting clear boundaries between professional activity which should require permission, and more occasional activity is desirable. To this end, two broad definitions of short-term rentals can be scoped out, according to the proportion of activity provided:

- Non-professional activity: people occasionally using their property for short-term rental activity, utilising assets that would otherwise be empty, within the spirit of the collaborative economy
- Professional activity: the use of properties as businesses to provide year round visitor accommodation

With this in mind, establishing a user-friendly framework makes it simpler for hosts to comply with the rules:

- **New industry-wide regulations** to support non-professional and professional providers, and to clamp down on unwelcome operators
- People wishing to host guests for more than **140 nights a year** would be permitted to do so only if it is their primary home and if it is not, with permission from their local authority
- Enabling legislative framework with an **opt-in system** for local authorities to be open and flexible around the needs of local communities
- A simple, online **registration system** to be used as a reporting mechanism to address the efficacy of these proposals

We believe this solution will:

- Prevent unauthorised landlords from listing properties on an ongoing short-term basis
- Remove financial incentives for landlords to favour short-term over long-term rentals
- Put power in the hands of local authorities and communities
- Provide a simple, practical and enforceable solution for local authorities and government, and for regular people who share their homes
- Allow short-term rentals which boosted the Scottish economy by £723million between 20016 and 2017⁵, to continue bringing economic benefits to Scotland's tourism sector

⁵ <https://www.assc.co.uk/wp-content/uploads/2018/06/MoreThanJustHouses.pdf>

The above represents our **preferred policy position**, current and proposed legislation notwithstanding. In the Appendices we have presented some proposed amendments to the Planning (Scotland) Bill as it currently stands. Our amendments are intended to align the bill as closely as possible with the broad principles we have set out, but are not entirely aligned with those because the ideal regulatory scenario would involve new legislation. The amendments also reflect our understanding of where a compromise can be reached with lawmakers who have a different perspective.

Case studies

Clear, simple, inclusive regulation can work for both governments and hosts. Many cities and governments believe residents should be able to rent a home occasionally, but at a certain point, renting becomes a more commercial activity requiring additional regulation. Governments across the globe have enacted sensible limits that meet their needs, which can take many different forms. We have included additional detail and case studies to justify our position. As an overarching resource, the European Commission has issued guidance on best practice of the regulation of short-term rental activity⁶.

Registration and opt-in solutions

To remove the cost and administrative burden to local authorities outlined in the Financial Memorandum, we recommend that policymakers in Scotland consider an opt-in regulatory system to ensure that local authorities can opt in with a clear evidence base.

Registration schemes are relatively common regulatory solutions across the world. In Scotland, we recommend that any registration system should be managed **on a nationwide level by a single, central government authority, and be declarative and instant**. We do not consider the regulatory fragmentation which would occur with local authority licensing schemes to be beneficial for the industry or for the local authorities themselves. Although the registration scheme would be managed nationally, only those short-letting at addresses whose relevant local authorities can prove such a housing shortage would be required to register. In practice, local authorities would have to build a compelling case for housing shortage within their jurisdiction, to take part in the opt-in mechanism.

Whilst some registration schemes are simple, others can impose too many burdens on users, or too many additional requirements on enforcement authorities. These latter kinds of schemes are likely to disincentivise amateur activity, whilst failing to deter rogue actors and, in some instances, making enforcement authorities' jobs more difficult. Below are some examples of registration systems for short term rentals⁷:

- In **Andalucia, Spain** individuals register their short-term rental online, obtaining a registration number from the regional government.
- In **Greece**, hosts are able to instant online registry launched by the Revenue Authority.

⁶ Appendix 2- European Commission: Collaborative Short-Term Accommodation Services: Policy Principles & Good Practices - relevant passages copied below, but full paper attached

⁷Appendix 4 - further information on regulation can be found below

- The government in **the Netherlands** is planning to introduce an online, instant, free registration system in 2020. Cities will be able to opt-in for this system, available for local councils with demonstrable housing constraints.
- In **Berlin**, there is currently no digital solution to submit a registration in and hosts must apply by mail, or in person at their local district office. Approval times vary from a couple weeks to months at a time. This has proved an additional barrier to entry for amateur hosts who are confused by registration criteria and deterred by the complexity.

Night limits

Governments across the world have opted to define night limitations for short-term rentals (e.g. 90 nights in a given calendar year), using regulation as a lever to economically disincentivise landlords to withdraw properties from the long-term rental market. Nightly limits set clear boundaries which are simple for non-professional hosts and businesses to understand and communicate.

We believe that there are already existing regulatory frameworks to identify commercial activity which should be correctly appropriated. In Scotland, properties which are booked for more than 140 nights in a calendar year are liable to pay non-domestic rates in Scotland and are therefore considered commercial. A property that is used for paying guests for fewer than 140 nights is almost certainly a main residence, although it may not be a sole or 'primary' residence. The distinction should not necessarily be between 'primary' and 'secondary' residences, or indeed about an arbitrary number of properties. Below are some examples of governments where night limits on short term rentals have been introduced:

- **Philadelphia, USA** allows anyone to operate a short term rental for up to 90 nights without being required to obtain a permit. Primary residents who own their homes, as well as renters who get permission from their landlord, can host for more than 90 days by applying for a permit. All rentals are limited to 180 days per year, and payment of transient occupancy tax is required.
- In **New South Wales, Australia**, the government allows short-term holiday letting as exempt development 365 days per year when the host is present; when the host is not present, a limit for hosts to rent out properties via short-term holiday letting of 180 days in Greater Sydney, with 365 days allowed in all other areas of New South Wales; councils outside Greater Sydney having the power to decrease the 365 day threshold to no lower than 180 days per year.
- In **France**, some cities have a limit of 120 days per year, beyond which they require "change of use" permission for hosting in non-primary residences. These cities also may establish a registration system. This system is free, online and only takes a few minutes to complete.
- In **Greater London**, the Deregulation Act of 2015 introduced an exception that allows residential premises for temporary sleeping accommodation to be used without being considered a "change of use" if you use the property as a short-term rental for 90 or fewer nights in a calendar year.

The need for balanced rules

Complex and burdensome rules limit the ability of non-professionals to participate in the collaborative economy. There are examples of steps taken at national level to ensure regulation is aligned, including a recent ruling of the Spanish Supreme Court against some of the overly restrictive elements of the Madrid region's rental regulations. In addition, the European Commission is currently investigating whether complex rules in the city of Brussels breach EU law. **We urge policymakers to work with the industry to ensure that rules are clear and simple for hosts and businesses to follow.**

Planning (Scotland) Bill - Section 11B

We believe that passing Section 11B as it is currently written will lead to unintended, negative consequences for the Scottish tourism industry. **This legislation will be costly, difficult to enforce and lacks a credible evidence base.** Our position is that:

- **It is unclear how these rules will be enforced effectively.** According to the Scottish Government's Financial Memorandum, it may cost planning authorities up to £2.7million a year to enforce rules effectively, creating a huge burden for local councils and communities across Scotland⁸. It also disincentivises people who want to share their home occasionally, with each planning application costing £401 to the individuals with no guarantee of success, and costing people who want to engage in this activity up to £4.6m per year⁹.
- **This amendment goes beyond the stated motivation to protect long-term residential housing stock.** Some urban areas such as parts of Edinburgh may face a unique set of challenges when it comes to the balance of housing availability and tourism capacity and therefore there should not be subject to blanket, national regulation for short-term rentals. However, restrictions must be targeted in places where there is clear evidence of housing pressure to achieve the intended policy objective. As the amendment stands, planning permission will be required in communities wanting to increase tourism footfall, as well as areas which may require additional regulatory guardrails.
- **Further assessment on the potential impact of the amendment is required.** We believe that regulation of short-term rentals in Scotland must be based on sound evidence. It is disappointing that residents, voters, communities, and businesses have not had a formal opportunity to participate in a consultation to communicate how they benefit from the vibrant tourism and travel industry offered by short-term rentals operating across Scotland.
- **We would like further clarity on exactly who is intended to be captured by this regulation.** As written, apartments, flats and properties catering for business travellers may not be subject to change of use rules. Additionally, it is unclear if classifying properties as non-residential may have implications beyond the planning regime, and landlords may be subject to non-domestic rates rather than Council Tax. It is crucial that individuals and businesses operating short-term lets are clear about the rules that apply to them.

⁸ Appendix 1 - Financial Memorandum of the Planning (Scotland) Bill - Appendix 2

⁹ Ibid

Appendices

We have enclosed within this briefing¹⁰ suggested amendments to the Planning (Scotland) Bill to reflect our position **as closely as possible within the current framework of the bill**. We request that the amendment be revised so the impact of short-term lets can be properly assessed. We welcome the opportunity to discuss the data attached and our specific proposals below in more detail.

Appendix 1 - Data on Short-Term Rentals

Data on regulation

£2.71m per year

Cost to local authorities to enforce Amendment 45 of the Planning Bill on short-term lets

£4.6m per year

Cost to hosts to go through planning permission process

£401

How much each host will have to pay to apply for planning permission

33%

Of the cost each planning application will be taken on by local authorities

Up to 300k

Bookable tourism nights lost across Scotland on Airbnb if the legislation is introduced

16

Number of anti-social behaviour complaints on short-term lets registered with Edinburgh Council from 2017/18

Data on housing availability

5x

As many vacant dwellings in Scotland than self-catering properties in Scotland

44%

Hosts in Scotland who use Airbnb to help afford staying in their home

40,000

Homes are empty in Scotland, rising from 25,000 in 2012

46,836

New homes need to be built in Edinburgh to meet demand according to Homes for Scotland

Under 25,000

Of homes in Scotland are second homes, almost half the amount in 2012 (40,000)

0.6%

The percentage of available housing stock in Scotland represented by entire home listings on Airbnb

¹⁰ Appendix 1 - data on short term rentals

Data on tourism

| | | |
|--|---|--|
| 15,000 Jobs supported by professional short-term letting sector in Scotland | £723m Estimated economic activity generated by professional short-term rentals | 1.4m Guest arrivals on Airbnb in Scotland in 2017 |
| £22m Estimated income in tourism tax short-term rentals by Edinburgh City Council | £66.3m Spent in cafes, bars and restaurants from 2016-17 | £27.5m Spent in local shops from 2016-17 |

Appendix 2 - Financial Memorandum from the Scottish Government

Short-term holiday lets

122. Section 11B of the Bill amends the 1997 Act to provide that the use of a dwelling house to provide short-term holiday lets always involves a material change in the use of the building, where it is not the sole or main residence of the landlord or occupier. This means that an application for planning permission will be required in all cases where a house or flat changes use from being a sole or main residence to being used for short-term holiday lets. There are exemptions for those letting all or part of their sole or main residence as a short-term holiday let and for the letting of a residential property under a “residential lease”. Also, the section relates specifically to short-term lets for ‘holidays’.

123. Figures are not available to accurately predict how many premises might change use in each year in this very specific way, but there is some information on similar issues.

124. The Scottish Assessors’ Valuation Roll records non-domestic property descriptions. The core descriptions include those for: “Bed & Breakfast Accommodation”, Chalet, Guest House, Holiday Hut, Self-Catering Unit, Time Share Unit. If self-catering units are taken as the nearest description to ‘short-term holiday let’ as set out in section 11B, then the number of new entries of that description at 1 April are:

- 2016 – 1225 new entries (compared to 1 April 2015)
- 2017 – 1430 new entries
- 2018 – 1908 new entries (this figure may be a spike in light of changes to council tax leading to properties being registered as non-domestic).

125. Taking an average over those three years, it could be expected that there would be 1,521 additional planning applications per year.

126. An alternative is to consider the number of short-term lets available in Scotland on websites such as Airbnb. Airbnb's submission to the Scottish Expert Panel on the Collaborative Economy indicated 21,900 active listings as of 1 July 2017, of which 59% were entire home (12,900). The growth rate for listings of entire homes in the previous year to that date was 55% for such listings. If we assume that level of growth was continued (though it may fall over time as Airbnb is a new company experiencing significant growth) that suggests 7,100 new listings per year. A European Commission study (2018) indicated Airbnb has 62% of the European market, then accounting for the rest of the market suggests a figure of 11,500 new entire-home listings per year.

127. Neither of these figures is entirely accurate; they do not distinguish between holiday and other short-term lets, and Airbnb figures do not distinguish between, for example, the short-term letting of entire homes which are someone's sole or main residence most of the time (exempt from the new requirement for planning permission) and entire homes which are purely intended for short-term letting. Airbnb is also likely to give an overestimate because some of these properties may be long-standing short-term lets which are only now being added to the online platform. However, they give an overall indication of the potential scale of new applications.

Costs on other bodies, individuals and agencies

128. As a change of use, each application for planning permission for short-term holiday lets will attract a fee (at current rates) of £401 each, which suggests a range of costs to landlords of between £610,000 and £4.6m per year.

129. This does not include the costs of putting together an application, the costs of refusal or of compliance with any planning conditions.

Costs on planning authorities

130. Taking into account the finding, set out in paragraph 23, that planning fees cover only 63% of the cost of processing, on average, it may be assumed that the cost to planning authorities of these additional applications will be between £358,207 and £2.71m per year.

Appendix 3 - European Commission: Collaborative Short-Term Accommodation Services: Policy Principles & Good Practices

The short-term rental of guest rooms and private properties has a long-standing tradition alongside other popular accommodation services such as hotels and bed & breakfasts. The rise of online platforms bringing together accommodation providers and travelers has led to a rapid growth of these services. According to a Eurobarometer survey undertaken in spring 2018, around 12% of EU citizens have used a collaborative short-term accommodation service.

Significant growth in collaborative short-term accommodation rental services has created many new opportunities for consumers, for citizens sharing their properties, for professional traders and for local economies. It has also given rise to concerns, including by some local communities witnessing a strong demand and high concentration of collaborative short-term accommodation offers. Enabling citizens and entrepreneurs to make use of the opportunities offered, while addressing justified concerns in an appropriate manner is likely to promote the sustainable and balanced long-term growth of collaborative short-term accommodation rental services in the EU.

With this in mind and following the 2016 Communication 'A European Agenda for the Collaborative Economy', representatives of national, regional and local authorities and stakeholders met in a series of workshops hosted by the European Commission and each dedicated to a specific issue. These workshops allowed discussing the European legal framework as well as policy principles and good practices for the balanced and responsible development of collaborative short-term accommodation rental services in the EU.

The discussions showed that challenges encountered were not the same in all cities and regions. Different situations call for different solutions. As a consequence, the policy principles and good practices summarised in this document explore a range of options against the background of the existing European legal framework. The principles and practices may serve to guide Member States' authorities in their policy measures as well as stakeholders.

Fully recognising that the market for collaborative short-term accommodation rental services is ever-changing and developing, this paper summarises the discussions held during the series of workshops in 2017 and policy principles and good practices identified.

Market access requirements for accommodation providers

National, regional and municipal authorities in Member States are currently putting into place a variety of policies and regulation covering the provision of short-term accommodation rental services. In some cases, these include requirements on the providers of these services amounting to restrictions of market access or the exercise of the activity in question, such as authorisation schemes. As explained in the European Commission's Communication on the collaborative economy, the Treaty on the Functioning of the European Union (TFEU) and the Services Directive in particular require these requirements generally "to be justified and proportionate, taking account of the specificities of the business model and innovative services concerned, while not favouring one business model over the other".

Under the Services Directive or TFEU, measures taken by national, regional or municipal authorities may not unlawfully restrict market access or the exercise of these activities. Such measures can however be justified where they are necessary for an overriding reason relating to the public interest. In the context of the rapid development of the collaborative short-term accommodation rental services, ensuring the protection of the urban environment; adequate housing; public security; the protection of consumers; and ensuring tax compliance and effective fiscal supervision were identified as important. These objectives have also been recognised by the Court of Justice as overriding reasons relating to the public interest. At the same time, the Court of Justice has held that purely economic objectives, such as the protection of competitors or ensuring the economic basis of specific categories of providers, do not constitute an overriding reason relating to the public interest.

In addition, where they can be justified by an overriding reason relating to the public interest, restrictions of market access or of the exercise of a certain service activity must still be proportionate. According to constant case-law of the Court of Justice, any such restrictive measures must therefore be suitable for securing the attainment of the objective pursued and not go beyond what is necessary in order to attain that objective. In this context the Court of Justice has also ruled that, when taking these measures, Member States cannot rely on a general presumption of an objective being put at risk and that they must present precise evidence enabling their arguments to be substantiated.

Accordingly, under the Services Directive a necessity and proportionality test applies specifically with regard to authorisation schemes and certain other specific requirements, such as territorial restrictions. It also lists certain requirements which are in any case prohibited, such as discriminatory requirements. In addition, a number of additional conditions are to be met where authorisation schemes are in principle necessary and proportionate. For example, the applicable procedures and formalities must be clear, be made public in advance and offer guarantees in terms of objective and impartial application, whereas any charges for applicants must be reasonable and proportionate. As a general rule, authorisations are to be granted for an unlimited period and applications are to be subject to tacit approval.

On this basis, the following policy principles were identified:

- 1. Member State authorities issuing guidelines and information on the rights and obligations of accommodation providers and guests can provide a useful means to facilitate compliance with applicable rules and regulations. Establishing a dedicated contact point can help addressing complaints by consumers and citizens about collaborative short-term accommodation rental services.*
- 2. Introducing a simple central online registration system for accommodation providers can constitute a proportionate policy response where collaborative short-term accommodation rental services negatively impact housing policy objectives or endanger the protection of the urban environment.*
- 3. Where there is evidence that in a specifically designated area there is a shortage in the availability and affordability of local housing and there is a significant and causal link between this shortage and the placing on the market of properties for short-term accommodation rental, introducing an authorisation scheme with a possible restriction in the number of properties authorised for short-term rental via online platforms can constitute a proportionate policy response for properties rented short-term on a regular basis. The imposition of a limitation of the number of authorisations granted should constitute a measure of last resort and be used only where other policy measures, such as setting a maximum for the number of nights that a property can be rented out, failed to address the shortage in the availability and affordability of local housing.*
- 4. Where there is evidence or an objective and serious risk of significant tax fraud, introducing a simple online registration system for accommodation providers can facilitate authorities monitoring and verifying that applicable income and tourist taxes are paid and can constitute a proportionate policy response.*
- 5. Where there are justified concerns relating to public security, the establishment of a simple online register for accommodation providers to identify their guests can allow for effective controls by authorities and can constitute a proportionate policy response.*

Peers and professionals

While there is a long-standing tradition of people regularly renting out properties held for investment purposes or used as secondary homes, the rapid growth of occasionally renting out primary residences is a more recent phenomenon in many Member States. The European Commission's Communication on the collaborative economy recommends Member States to take into account the specific features of collaborative economy business models and not to treat private citizens offering services on an occasional basis ('peers') automatically like services providers acting in a regular or professional capacity. This can help avoid the imposition of disproportionate policy measures.

Thresholds are a possible means to identify peers. Their introduction can allow the occasional sharing of properties while also allowing public authorities to apply policies effectively protecting overriding reasons relating to the public interest in a proportionate manner, without favouring one business model over the other.

On this basis, the following policy principles were identified:

- 1. Where there is a need to protect an overriding reason relating to the public interest, a differentiated policy between peers and providers acting in a regular or professional capacity can be useful to ensure that policy measures addressing accommodation providers are both effective and proportionate. Compliance with a threshold is aided where the threshold is easy to understand, monitor and enforce. A registration obligation for accommodation providers and/or online platforms sharing information with public authorities can aid the practical application of a threshold.*
- 2. The introduction of a threshold should take into account the nature of the overriding reason relating to the public interest pursued. A differentiation between peers and accommodation providers acting in a regular or in a professional capacity can be particularly pertinent where authorities prepare the introduction of authorisation schemes or quantitative or territorial restrictions for accommodation providers to meet legitimate and justified policy objectives such as the availability and affordability of local housing. The pursuit of other legitimate and justified overriding reasons relating to the public interest may not always require a differentiation between peers and accommodation providers acting in a regular and in professional capacity (e.g. concerns relating to public security).*
- 3. A threshold expressed in terms of a number of nights a property is rented out per year can constitute a uniform and clear means of identifying a peer that is independent from the value of the property, its location and income generated per night. A threshold of a pre-defined number of nights per year (e.g. 90 nights) can ensure that there is no economic incentive to withdraw a property from the long-term rental market. A peer may also be identified as a citizen renting out a property held for personal use (primary or secondary residences) as opposed to a property not used as a private residence.*

Appendix 4 - Alternative Planning Bill amendments

Draft amendments

Below we have drafted amendments for your consideration.

VERSION ONE

45 Before section 12, insert—

Meaning of “development”: use of dwellinghouse for short-term holiday lets

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 26 (meaning of “development”)—

(a) after paragraph (a) of subsection (3) insert—

(aa) the use of a dwellinghouse for the purpose of providing short-term holiday lets involves a material change in the use of the building, in areas of demonstrable and severe housing shortage

(i) The Scottish Ministers may issue guidance on the interpretation of “demonstrable and severe housing shortage”.

(ab) for the purposes of subsection (3)(aa), “providing short-term holiday lets” does not include—

(iii) the letting of a residential property under a residential lease the letting of a dwellinghouse under a residential lease,

(iv) the letting of part or the whole of a residential property where the property is a the sole or main residence of the landlord or occupier.

(b) after subsection (7) insert—

(8) The Scottish Ministers may by regulations make any incidental or supplementary provisions that they consider appropriate for the purposes of, or in connection with, giving full effect to subsections 3(aa) and 3(ab) issue guidance on the interpretation of “providing short term holiday lets” for the purposes of subsection (3)(aa).

VERSION TWO

Meaning of “development”: use of dwellinghouse for short-term holiday lets

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 26 (meaning of “development”)—

(a) after paragraph (a) of subsection (3) insert—

(aa) the use of a dwellinghouse for the purpose of providing short-term holiday lets involves a material change in the use of the building

(ab) for the purposes of subsection (3)(aa), “providing short-term holiday lets” does not include—

(ii) the letting of a residential property under a residential lease

(iii) the letting of part or the whole of a residential property where the property is the sole or main residence of the landlord or occupier.

(iii) the letting of the whole of a residential property where the property is a secondary residence of the landlord or occupier if the total rental period within a calendar year does not exceed 140 nights

(b) after subsection (7) insert—

(8) The Scottish Ministers may by regulations make any incidental or supplementary provisions that they consider appropriate for the purposes of, or in connection with, giving full effect to subsections 3(aa) and 3(ab) issue guidance on the interpretation of “providing short-term holiday lets” for the purposes of subsection (3)(aa).

VERSION THREE

Meaning of “development”: use of dwellinghouse for short-term holiday lets

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 26 (meaning of “development”)—

(a) after paragraph (a) of subsection (3) insert—

(aa) the use of a dwellinghouse for the purpose of providing short-term holiday lets involves a material change in the use of the building **if the total rental period in a calendar year exceeds 140 nights**

(ab) for the purposes of subsection (3)(aa), “providing short-term holiday lets” does not include—

(ii) the letting of a residential property under a residential lease

(iii) the letting of part or the whole of a residential property where the property is the sole or main residence of the landlord or occupier.

(ac) Planning authorities which contain areas of severe and demonstrable housing shortage may apply to lower the maximum number of nights in a calendar year after which a material change of use applies to a minimum of 90.

(b) after subsection (7) insert—

(8) The Scottish Ministers may by regulations make any incidental or supplementary provisions that they consider appropriate for the purposes of, or in connection with, giving full effect to subsections 3(aa) and 3(ab)-issue guidance on the interpretation of “providing short-term holiday lets” for the purposes of subsection (3)(aa).

Appendix 5 - Legislative examples

UK - London

Deregulation Act 2015 - Short-term use of London accommodation: relaxation of restrictions

(1) The Greater London Council (General Powers) Act 1973 is amended as follows.

(2) In section 25 (provision of temporary sleeping accommodation to constitute a material change of use), after subsection (1) insert—

“(1A) Subsection (1) is subject to section 25A.”

(3) After section 25 insert—

“25A Exception to section 25

(1) Despite section 25(1), the use as temporary sleeping accommodation of any residential premises in Greater London does not involve a material change of use if two conditions are met.

(2) The first is that the sum of—

(a) the number of nights of use as temporary sleeping accommodation, and

(b) the number of nights (if any) of each previous use of the premises as temporary sleeping accommodation in the same calendar year,

does not exceed ninety.

(3) The second is that, in respect of each night which falls to be counted under subsection (2)(a)—

(a) the person who provided the sleeping accommodation for the night was liable to pay council tax under Part 1 of the Local Government Finance Act 1992 in respect of the premises, or

(b) where more than one person provided the sleeping accommodation for the night, at least one of those persons was liable to pay council tax under Part 1 of that Act in respect of the premises.

(4) For the purposes of subsection (2)(b), it does not matter whether any previous use was by the same person.”

(4) After section 25A (inserted by subsection (3) above) insert—

“25B Further provision about section 25A

(1) The local planning authority or the Secretary of State may direct that section 25A is not to apply—

(a) to particular residential premises specified in the direction;

(b) to residential premises situated in a particular area specified in the direction.

(2) A direction under subsection (1) may be given only if the local planning authority or (as the case may be) the Secretary of State considers that it is necessary to protect the amenity of the locality.

(3) The local planning authority may give a direction under subsection (1) only with the consent of the Secretary of State.

(4) A direction under subsection (1) may be revoked by the person who gave it, whether or not an application is made for the revocation.

(5) The Secretary of State may—

(a) delegate the functions of the Secretary of State under subsection (1) or (4) to the local planning authority;

(b) direct that a local planning authority may give directions under this section without the consent of the Secretary of State.

(6) The Secretary of State may revoke a delegation under subsection (5)(a) or a direction under subsection (5)(b).

(7) The Secretary of State may by regulations made by statutory instrument make provision—

(a) as to the procedure which must be followed in connection with the giving of a direction under subsection (1) or in connection with the revocation of such a direction under subsection (4);

(b) as to the information which must be provided where the local planning authority seeks the consent of the Secretary of State to the giving of a direction under subsection (1).

(8) A statutory instrument containing regulations under subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament.

(9) In this section, “local planning authority” has the same meaning as in the Town and Country Planning Act 1990 (see section 336(1) of that Act).”

**

Greece¹¹

Regulations and permissions

Greece implemented regulations for short term accommodation rentals through Article 111 of Law 4446/2016 and its implementing acts with regards to the sharing economy.

It’s important to make sure you’re allowed to host on your property. Some examples of restrictions include contracts, laws, and community rules. Check with a lawyer or local authority to learn more about regulations, restrictions, and obligations specific to your circumstances.

You can use the general info in this article as a starting point around hosting regulations and permissions.

¹¹ <https://www.airbnb.ie/help/article/1246/responsible-hosting-in-greece>

Definitions

According to Greek law, a property is defined as a flat, a house, or any other form of building with structural and functional autonomy, as well as rooms in flats or detached houses.

Greek law defines a short-term rental as a rental of property completed through digital platforms for a specified period of less than one year.

Any person, whether a citizen or a company, who manages a property used for short-term rental purposes is defined by law as a short-term leasehold property manager, who may be the owner of the property, the sub-lessee, or even a third party.

Registration

You need to register your property on the short-term residence register before you can create a listing for it on a digital short-term rental platform. You should list bookings from 1st January 2018 onwards on the register. By the 20th of each month, you should register the previous month's income from your registered property.

The law doesn't currently impose daily limits or other restrictions on short-term rental properties. The law currently allows the government to introduce daily limits for specific geographical areas, such as small islands, but this has not happened yet. Also, in the case of co-hosting or co-ownership, which are subject to additional rules and obligations, we suggest that you contact your local councillor or tax consultant for further guidance.

Lastly, the provisions of Greek law on short-term rentals within the framework of the sharing economy don't apply to tourist accommodation. If you have tourist accommodation, such as half-board accommodation, you should follow the relevant legislation. You may have to obtain a special operating license in accordance with the provisions of Articles 1 to 4 of Law 4276/2014 and Article 46 of Law 4179/2013. Managers of such lodgings aren't required to use the short-term residence register.

France¹²

Furnished tourist property (Meublé de tourisme)

A furnished tourist property rental (or "meublé de tourisme") is a furnished residential space that you intend use as a short-term rental for guests. Furnished tourist properties are for the exclusive use of non-permanent tenants.

The furnished tourist property rentals category includes:

- Furnished houses (including holiday homes)
- Villas
- Apartments
- Studios

A primary residence or a secondary residence rented in full can be deemed as "meublé de tourisme", however, a guest room or private room is not considered a furnished tourist property, and as such, not subject to the same regulation.

¹² <https://www.airbnb.ie/help/article/1383/responsible-hosting-in-france>

Most furnished tourist properties are referred to as “non-ranking,” but you can choose to rank your furnished tourist property in an existing category. In terms of tax, ranking your property may reduce your income by a flat rate of 71%.

Accommodation categories

In June 2018, the members of Union Nationale Pour la Location de Vacances, the French Association of Short Term Rentals (UNPLV), made voluntary commitments to the French Government to support sustainable and healthy tourism. As a result, hosts need to categorise their listings within those three categories: primary residence, secondary residence and non-residential space.

Primary residences

Your primary residence is the place you live at for at least 8 months per year unless there is a professional constraint, health issue, or other unforeseen circumstances. You are allowed to rent it in full for a maximum of 120 days per year. You can rent a room in your primary residence without any duration limit, 365 days per year.

Secondary residences

A secondary residence is a place where you live for less than 4 months a year, including pieds-à-terre and holiday houses. You can rent your secondary residence all year long provided you’ve declared your rental activity to the city.

Non-residential spaces

Non-residential spaces are accommodation dedicated to hosting tourists. This category includes hotels, Bed and Breakfast, or serviced flats for instance. Bed and breakfasts are furnished rooms within a home that a tourist can rent for a fee for one night or more. The host must provide services (at least the supply of linen and breakfast).

Registration and declaration requirement

You generally don’t have to declare your accommodation to the city if:

- you rent your primary principal residence for less than 4 months per year
- you rent a room in your primary main residence (no time limit)

If you rent your secondary residence, you must send a simple declaration to your city.

Specific registration obligation in some cities

The Law for a Digital Republic and the ELAN Law state that certain municipalities may establish a procedure of “registration” for any person proposing an entire tourist-furnished accommodation (see definition above) for rent.

You must register your accommodation if:

- You rent a primary or secondary residence
- You own or you rent this accommodation
- You rent the full accommodation (rooms don't need to be registered)

You don't need to register your accommodation if:

- A single room of your primary residence
- A dedicated tourist accommodation, including guest rooms, bed and breakfasts, hotels, and serviced apartments
- If you rent exclusively for durations that exceed 3 months in a row
- You rent only on "bail mobilité" (mobility lease) scheme for a minimum of one month to a tenant justifying, on the effective date of the lease, to be in professional training, in higher studies, in apprenticeship contract, in internship, in voluntary engagement within the framework of a civic service, or on a temporary assignment in the context of his professional activity

Change of use

Some cities and neighbourhoods require permission to use your secondary home as a tourist rental. You can get permission for change of use from your local city hall.

Paris registration requirement

In October 2017, Paris City Hall established a registration rule for hosting furnished property or "meublé de tourisme" on short-term rentals for primary and secondary residences. Hosts in Paris generally need to get a registration number from Paris City Hall and include it in their listing before they're permitted to accommodate guests.

The registration requirement doesn't apply to:

- individual rooms within your primary residence (also referred to as private rooms)
- rentals with longer durations than 3 consecutive months
- Rentals with "bail mobilité" (mobility lease) scheme only, for a minimum of one month
- non-residential spaces

Change of use and compensation in Paris

In addition to the other rules and exceptions for change of use, Paris requires you to purchase an equivalent surface area of a commercial space that you transform into a residential space. The rule is called a "compensation." Compensations may vary across districts.

Change of destination in Paris

If you plan to host guests throughout the year, you will need to convert your accommodation's destination status by filing an application for an urban planning permission to the City Hall. A change of destination converts residential or non-residential premises, such as shops and offices, to tourist-furnished accommodation, which are part of the "hotel accommodation" destination.

Night limits in France

Starting January 1, 2019, in the cities listed below, we'll only allow entire primary residences listings to host reservations for a maximum of 120 nights per calendar year (from 1st January to 31st December). These automatic limits apply only to the entire primary residences, not rental of individual rooms, in following cities:

- [Aix en Provence](#)
- [Annecy](#)
- [Bordeaux](#)
- [Levallois-Perret](#)
- [Lille](#)
- [Lyon](#)
- [Martigues](#)
- [Menton](#)
- [Neuilly sur Seine](#)
- [Nice](#)
- [Nîmes](#)
- [Paris](#)
- [Roquebrune Cap Martin](#)
- [Saint-Cannat](#)
- [Saint-Paul de Vence](#)
- [Sète](#)
- [Villeneuve-Loubet](#)
- [Versailles](#)

This list of cities has been established in consultation between UNPLV, the French Holidays Homes Association, and the French Government.

There are a few possible exceptions that might qualify your primary residence for an exemption:

1. You've been away from your home for more than 4 months this year for reasons of health, professional, or force majeure
2. You only rent the accommodation to guests for a minimum period of 90 days or more

In addition, the automatic limits don't apply to entire primary home listings that have selected "mobility lease only" to claim an exemption from the obligation to register.

We've partnered with Legal Place to provide hosts of mobility lease rentals with [lease agreement templates](#).

You can complete a [request form for a night limit exemption](#) if your primary residence meets one of the listed exemptions.

Portugal¹³

What is the current law in Portugal around short-term rentals?

Before you can rent out your home to paying guests, you must register your property with the authorities as a Local Lodging establishment (Alojamento Local). This requirement is called the Local Lodging regime (Alojamento Local regime) and is set forth in Decree-Law no. 128/2014, of August 29, amended by Decree-Law no. 63/2015 of 23 April, an official consolidated version of which can be found here.

What is registration?

Registration is the process by which a host enters their registration number obtained from the Portal do Cidadão, or claims that they are exempt from registering.

Who needs to register?

All Alojamento Local establishments must be registered. Alojamento Local establishments are those which provide temporary accommodation services to tourists against payment, in one of the following forms: (i) houses; (ii) apartments; (iii) lodging establishments (includes hostels/dormitories).

Furthermore, the Alojamento Local regime assumes that there is an Alojamento Local when a building or a fraction of it is presented, made available or is subject to any intermediation as an accommodation intended for tourists or short-term rentals, namely on websites or travel agencies; or when it is furnished and equipped and offers complementary services, such as cleaning or a reception desk, for periods of less than 30 days - this presumption may be rebutted under the terms of the law, for instance by providing proof of existence of an urban lease contract duly registered with the tax authorities.

What if I'm hosting long-term guests and/or listing a licensed hotel, bed & breakfast, or timeshare?

There is not a minimum or maximum number of nights involved for a property to be considered as an Alojamento Local establishment.

Touristic enterprises (see below for a complete list) have their own legal regime (Regime Jurídico da Instalação, Exploração e Funcionamento dos Empreendimentos Turísticos, Decree-Law no. 39/2008, of March 7, as amended) that covers establishments intended to provide accommodation services against remuneration, having an appropriate set of facilities, equipment and complementary services for their operation.

A complete list of touristic enterprises can be found below:

- Hotels (includes inns, guesthouses, and bed & breakfasts)
- Holiday villages
- Tourist apartments
- Resorts
- Town and country house tourism accommodation
- Tourism enterprises in rural areas
- Campsites and caravan sites

¹³ <https://www.airbnb.ie/help/article/1385/responsible-hosting-in-portugal>

How much does it cost to register?

The registration process itself is free.

How often do I need to renew my registration?

There is no need to renew your registration. Please note however that if any of your listing details or registration details change, you will need to update the Portuguese Authorities within 10 days.

What information will I be required to submit as part of my registration with the government or Portugal?

You must provide the following information:

- Name, address and Tax Number (NIF) of the owner/person who is going to carry out the activity
- Start date of the activity
- Capacity (rooms, beds and users)
- Valid authorisation of use of the property
- Emergency contact details
- Name adopted by the establishment and its address

As well as the following documentation:

- Passport/ID/Company documents
- Land Registry document
- Signed declaration that your property is suitable as an Alojamento Local establishment
- Lease agreement, deeds or other document that entitles you to rent your property
- Declaration of Tax Activity (Declaração de Início de Atividade), CAE 55201 or 552014.

I am a touristic animation agent or travel agent, what obligations should I comply with?

- If you are a touristic animation agent or a travel agent please note that you may be subject to registry obligations. Information and applications for this registry can be found on the [Turismo de Portugal's website](#) in the section about [National Registry of Touristic Animation Agents \(RNAAT\)](#). Please make sure you comply with those when describing your listing, namely by indicating your registry number. You may find additional information regarding such requirements [here](#).

I want to register my alojamento local in the Açores, how can I do so?

- In order to register an alojamento local in the Açores you must contact the city council of the respective municipality where your alojamento local is located. You can find further information regarding the obligations for registering an alojamento local in the Açores [here](#).