

COMHAIRLE NAN EILEAN SIAR

The Civic Government (Scotland) Act 1982

The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022

UNLICENSED SHORT TERM LETS OPERATORS.

Background

Under the Government (Scotland) Act 1982, Subject to certain exemptions and exclusions, operators of short-term lets in the Outer Hebrides must have a licence issued by Comhairle Nan Eilean Siar. The Comhairle can take enforcement action against licensed operators and will liaise with Police Scotland regarding unlicensed operators. The maximum fine for operating without a licence is £2,500. Further guidance is available on the [Scottish government website](#).

The majority of short-term let operators have now applied and been granted a licence and to ensure a fair-trading environment across the sector the Comhairle will now deal with unlicensed operators using the following process.

“Existing Operators”

Under the legislation, operators who applied for a licence prior to 1 October 2023 and were trading before October 2022 can continue to operate while the Comhairle considers their application. This only applies where the operator has made a **competent application**, submitting all the required supporting documentation with their application.

Operators that have been told their application is **not competent** are **not** covered by the above and are **unlicensed operators**, if they are still trading.

There was a significant number of applications by “Existing Operators” made prior to the 1st October 2023 deadline, including many that were not considered competent. The Comhairle’s initial approach to these incompetent applications was to assist applicants with making them competent, without taking any action, even though operators continued to advertise and trade. This approach was taken due to it being a new regime coupled with the high volume of applications that came in at the deadline. It was extended due to the cyber-attack and the associated administrative issues faced by the licensing team.

The Comhairle is now at a stage where it has progressed the majority of “Existing Operators” to the competent stage or have issued them with a licence. There remains a significant number of “Existing Operators” that have still not submitted the relevant documentation for their application to be considered competent, even after several reminders. These are unlicensed operators, and the process below will be followed (starting at step 2).

Unlicensed Operators

The Comhairle will follow these steps for unlicensed operators.

- 1 Initial contact (1st reminder) with the operator advising them that they need to make a **competent** application for a licence within 28 days, stop trading and outline the enforcement options that will be followed.
- 2 Check up in 14 days and if a **competent** application has not been made and they are still trading issue a reminder (2nd reminder) that they have 14 days to make a **competent** application, stop trading and outline the enforcement options that will be followed.
- 3 Check up in a further 14 days and if they have not made a **competent** application for a licence and are still trading then advise them (final warning) that the enforcement options detailed below will be followed.

Enforcement Options and Process

The enforcement process the Comhairle will follow is detailed below (and overleaf).

1. If a competent application has not been submitted check if STL operator is using online platforms,
 - a) if yes, contact online platforms advising operator unlicensed and wait 14 days before following step 2 below.
 - b) if no, go to step 2 below
2. If a competent application has not been submitted and the operator is still trading, then refer the details of the unlicensed operator to Police Scotland to follow up and wait 14 days before following step 3 below.
3. If a competent application has not been submitted, then the application will be rejected (application fees will not be refunded). If the STL operator wishes to continue operating then they will have to submit a new competent application, with fee and have it approved before being allowed to trade.

Enforcement Process for Unlicensed Short-term Operators

