

New Regulation of Short-Term Lettings

FAQ's

1. What is the purpose of the new legislative reforms?

The new planning legislative reforms provided for in the Residential Tenancies (Amendment) Act 2019 and supplementary regulations made by the Minister for Housing, Planning and Local Government are focussed on short-term tourism related letting. As short term letting has become more popular as a form of tourism letting to supplement accommodation provided by hotels, B&Bs etc., it has resulted in some professional landlords withdrawing houses and apartments that would normally be rented on a long-term basis to instead rent them out as short-term lets. In the context of the current housing supply situation, the aim of the new legislative reforms is to influence the bringing back of such houses and apartments to the traditional long-term rental market and thereby help ease the accommodation shortage pressures currently being experienced in this area.

2. When do the provisions take effect?

The provisions take effect from 1 July 2019.

3. Are these permanent arrangements?

The new provisions will only apply in areas designated as “rent pressure zones” under the Residential Tenancies Act 2004.

The short-term letting regulations will only apply for as long as there are designated rent pressure zones. If in 2021, there are still rental supply issues and rent pressure zone designations are further extended, then the regulations relating to short-term lettings will continue to apply.

4. Where are the Rent Pressure Zones (RPZ's)?

Local Authorities: Dublin 4 (LAs), Kildare, Louth, Meath, Wicklow, Galway (City & County LAs), Kilkenny, Limerick, Waterford, Westmeath

Local Electoral Areas:

Mayo: Westport.

Carlow: Carlow.

Laois: Grangecullen/Portarlinton, Portlaoise

Offaly: Tullamore.

Wexford: Gorey

Clare: Ennis, Shannon

Kerry: Killarney

5. What legislation has introduced these reforms?

Section 3A of the Planning and Development Act 2000- inserted by section 38 of the Residential Tenancies Amendment Act 2019 (No 14 of 2019), and the Planning and Development (Amendment) Regulations 2019 (S.I. No 235 of 2019).

Homesharing & Short-term Letting

6. What is homesharing?

Homesharing is the letting of a room or rooms in a person's principal private residence (house or apartment) while it is occupied by the resident.

7. What is short-term letting?

The letting of a house or apartment, or part of a house or apartment, for any period not exceeding 14 days.

8. Am I restricted to letting in 14 day blocks?

There is no restriction that lettings must be in 14 day blocks. Lettings may be for any period between 1 to 14 days e.g. lettings may be of a duration of 1, 4 or 10 days once the period of the letting is 14 days or less.

9. What if I let for more than 14 Days?

Longer letting of 15 days or more do not fall within the scope of the new provisions and are permissible. A host can let a property to the same guest for periods of 15 days or more. Normal tax rules will apply.

10. What is a material change of use?

The use of any house or apartment for short-term letting use in a rent pressure zone is a 'material change in the use' of the structure. In other words, any short-term letting use in a house or apartment will be deemed to be development requiring planning permission except where the relevant exemptions apply.

11. Can someone rent a room in a second property as a short-term let? Or do both have to be long-term lets?

As above, any short term letting in an RPZ is a material change of use requiring planning permission unless exempted. The only exemption being provided relates to a principal private residence (PPR), where a person lets part of their own PPR on an unlimited basis or all of their own PPR on a limited basis (90 days). There is no exemption for a person to undertake short-term letting in a property that is not their PPR. Therefore, in the circumstances above, the person engaging in the short-term letting activity would either have to get permission or restrict their lettings to long-term ones. 5

12. Will this ban short-term letting in second properties?

The reforms provide for clear exemptions from any planning permission requirements. However, generally, outside these exemptions, planning permission is required. Therefore, where a person owns a second property in a rent pressure zone and intends to let it as a short-term let, they will

only be able to do so if the property has planning permission to be used for tourism or short-term letting purposes.

Homes or apartments which already have a specific grant of planning permission for use as holiday accommodation/ short-term tourism type letting are not impacted by these reforms.

Principal Private Residence

13. What constitutes a principal private residence?

The regulations define a 'principal private residence' as a place where a person ordinarily resides.

14. How do you prove that a property is your principal private residence?

The regulations define a 'principal private residence' as a place where a person ordinarily resides. Documentary evidence such as bills etc. should be sufficient to prove this.

15. What does a person do if they want to engage in short-term letting in a premises that is not their principal private residence?

Planning permission will be required in such a case for a formal change of use.

Application of the Provisions

16. What properties are not affected?

The legislative changes in relation to short-term letting do not apply outside of rent pressure zones. Furthermore, the changes will not affect the operation of holiday homes as typically understood, or longer-term flexible lettings such as that provided for those coming to Ireland under employment contracts. Similarly, normal house or apartment letting, or extended-stay accommodation, or rent-a-room schemes (i.e. for periods longer than 14 days) will not be affected. 6

17. Will the regulations differentiate between houses and apartments?

The definition of the term "house" in the Planning and Development Act 2000, as amended encompasses houses, apartments and flats.

18. Why haven't the regulations been applied nationally?

As the proposals are primarily aimed at addressing the impact on the private rental market of the use of residential properties for short-term tourism type letting, in areas of high housing demand, the new provisions only apply in areas that are designated as rent pressure zones – both rent pressure zones which have already been designated and those designated in the future. The existing planning requirements in areas outside of the designated rent pressure zones remain unchanged.

19. What is a holiday home?

Holiday homes are properties, which have been purposely designed and constructed and approved as dedicated tourism accommodation complexes sharing communal facilities and would normally be subject to planning conditions in relation to their continued operation, management and maintenance as a commercial development rather than a residential estate. The new arrangements do not affect the continued operation of such form of tourism accommodation.

20. What is a corporate/ executive let?

Corporate/ executive lets may include letting of properties to facilitate persons find suitable long-term accommodation when moving employment location or moving to Ireland from abroad, persons undertaking temporary consultancy/ contract work for an extended duration, corporate clients who require a residence for the duration of their assignment to a location, persons or families who require long-term accommodation in a particular location adjacent to a hospital while in receipt of medical treatment, persons or families requiring accommodation while their normal residence is being renovated etc. These are not short-term stays in the transient tourism sense and can be classified as extended stays with the duration varying from say 2 weeks to many months with the persons concerned becoming effectively semi-resident in, and contributing to, the local area by visiting shops, restaurants as well as socialising in the area. The reforms do not apply to the corporate/ executive letting sector.

90 day cap

21. What is the 90 day cap?

The 90 cap relates to the total cumulative number of letting days over a calendar year period that a homesharer can let their permanent place of residence (house or apartment) while they are temporarily absent from their home. For example, a homesharer may possibly let their entire principal private residence for 2 days on 45 separate weekends in a year i.e. 45 weekends x 2 days = 90 days without having to obtain planning permission.

The cap of 90 days relates to actual short-term letting bookings as opposed to a house or apartment being available for short-term letting.

22. Can the 90 cap allowance be rolled over if it is not fully utilised?

No. The 90 day cap is an allowance per calendar year.

23. What cap will apply for the remainder of 2019?

The full 90 day allowance will be allowed in 2019. An annual allowance of 90 days per calendar year will be allowed from 2020 onwards.

What applies/ scenarios?

24. I want to carry out short-term letting in my principal private residence- What applies?

In areas designated as rent pressures zones:

- 'Homesharing' - the letting of room/ rooms in a person's principal private residence – will continue to be allowed on an unrestricted basis.
- Homesharers will be allowed to let their entire principal private residence (house or apartment) for short-term letting purposes for a cumulative period of 90 days per calendar year where they are temporarily absent from their home.
- However, if a homesharer lets or wishes to let their residence for longer than 90 days in a calendar year, planning permission will be required.

25. I want to short-term let a second property, which is not my principal private residence. - What applies?

If the property is in a rent pressure zone, planning permission will be required in such a case for a formal change of use. 8

26. I am an accidental landlord and own a second property which is not my principal private residence and which I rent out. What applies?

In this case, the property in question is not considered to be your principal private residence. Accordingly, if the property is in a rent pressure zone, you are affected by the new provisions and will require planning permission if you wish to let it for short-term letting. However, it is open to you to rent the property in question on a long-term basis.

27. What applies if I am not in a rent pressure zone?

The existing planning requirements outside of rent pressure zones remain unchanged.

28. What if I use my property for student accommodation during the college year? Can I do short term letting in the summer months?

The new provisions will not affect the operation of purpose built student accommodation, for which permissions are typically granted with planning conditions that generally facilitates the use of student accommodation complexes as alternative summer or holiday accommodation but which are reserved as student housing during the academic year.

This is on foot of advice provided by the Department to planning authorities, by way of Circular Letter PL8/2016 issued in July 2016, regarding matters to consider in relation to the handling of planning applications for student accommodation. In this regard, the Circular makes it clear that housing for students is a specific and important segment of the overall housing sector with distinct characteristics and requirements. Accordingly, appropriate safeguards are required to ensure that student accommodation is not used as permanent residential accommodation or for other uses and

is restricted to the accommodation of students during the academic year. However, planning authorities were reminded of the need to establish a steady rental income for such student accommodation developments throughout the year in order to ensure the deliverability and viability of development projects from a funding perspective and to recognise that student accommodation complexes can play an important role in providing affordable accommodation for tourists and visitors in major urban areas during the peak summer demand periods. However if you are renting an individual private property for student accommodation purposes during the academic year, there are no planning exemptions for short-term letting in a property which is not a principal private residence for the months outside the academic year. Therefore, planning permission will be required for the short-term letting element of use.

29. Could someone executive/ corporate let their second property for 9 months and short-term let for 3 months?

There is no issue with executive letting in a second property. This form of letting for periods in excess of 14 days per letting is outside the scope of the new arrangements. However, there are no exemptions for short-term letting in a property which is not a principal private residence, therefore planning permission would be required for the short-term letting element.

Rent Pressure Zones (RPZs)

30. What is permitted in a rent pressure zone?

In a rent pressure zone, in a principal private residence, an exemption from the requirement to obtain planning exemption is allowed to enable a person to do unlimited homesharing (letting of a room or rooms while the owner is present) and limited short-term letting (letting of the entire property to a max of 90 days per annum while they are temporarily absent). If a homesharer wants to let their entire property for greater than 90 days then planning permission will be required.

31. How do I know if I am in a Rent Pressure Zone?

Rent pressure zones are designated under the Residential Tenancies Act 2004. The current designated rent pressure zones are available on The Housing Agency's website at the following link: <https://www.housingagency.ie/rent-pressure-zones> All of County Louth is a rent pressure zone.

Planning Permission and Exemptions

32. What exemptions are provided?

The following specific exemptions from planning permission are provided for under the new short term letting arrangements:

- homesharing – that is the letting of a room or rooms in a person's principal private residence (house or apartment) - will continue to be allowed on an unrestricted basis and without the need for planning permission,

- homesharers will also be allowed to sub-let their entire home for short-term letting for a cumulative period of up to 90 days annually while they are temporarily absent from the property, again without having to obtain planning permission
- Where the 90 day threshold is exceeded, the planning permission exemption no longer applies and planning permission will be required.

33. How do I find out if planning permission is required?

If there is an uncertainty as to when planning permission is required, a person may contact the Planning Department of their local planning authority and seek a declaration under section 5 of the Planning and Development Act 2000 which will confirm the position.

A declaration must be issued within four weeks and may be referred to An Bord Pleanála for review.

Any short-term letting, which is deemed by a planning authority to be a material change in use, to be decided on a case-by-case basis, will require planning permission. Any unauthorised development can be the subject of planning enforcement.

34. When is planning permission needed?

Planning permission is required in rent pressure zones in the following circumstances:

- Short-term letting of a room or rooms in a house that is not a person's principal private residence (house or apartment), and
- Where the 90-day threshold for short-term letting of the entire home of a person's principal private residence is exceeded.

35. How do I apply for change of use planning permission?

A planning application should be made to the local planning authority in the normal way, including an application form, any necessary drawings, site notice and the appropriate fee. The planning authority will generally decide on the application within 8 weeks.

36. Is it an application for permission or retention?

For a new short-term letting use, a person applies for permission. For an existing unauthorised use you must apply for retention permission.

37. Is there an application form for applying for permission?

Yes, the application form is Form No. 2 in the Planning and Development Regulations 2001.

38. What will be considered when a planning application is submitted?

The planning authority will consider whether the property is situated within a rent pressure zone, an area experiencing high rent inflation, and whether there is a sufficient supply of rental properties

available for longer-term rental in the area. The cumulative impact of applications will also be a consideration.

In areas of high housing demand and, taking into account other relevant factors such as cumulative impacts, it is unlikely that permission would be granted.

39. What fee applies to the change of use planning permission?

Planning fees are set out in Schedule 9 of the Planning and Development Regulations 2001. These provide that a planning application for a commercial building - for example relating to an application to change of use of a building from residential to full commercial use - is €3.60 for each square metre with a minimum fee of €80 for each building. A fee of €10.80 for each square metre with a minimum fee of €240 applies in cases where retention permission is sought.

There will not be any charge associated with a person fulfilling any reporting or notification requirements under the new arrangements.

40. How can I appeal a planning permission decision?

An application for permission for change of use for short-term letting is made in the same manner as any other application for planning permission to a local authority under the Planning and Development Act 2000 and the same right of appeal to An Bord Pleanála (the Board) applies. The decision of a planning authority may be appealed to the Board within a period of 4 weeks following the local planning authority decision and the Board has a statutory objective to determine such planning appeals within 18 weeks.

Enforcement

41. How will these arrangements be enforced

The new arrangements are being introduced through the planning code and each planning authority's enforcement unit will be responsible for monitoring and enforcing these new requirements in their respective functional areas.

There are already extensive enforcement provisions provided for in Part 8 of the Planning Act, including section 156 (Penalties for Offences), section 157 (Prosecution of Offences), section 158 (Offences by bodies corporate), section 159 (Payment of fines to planning authorities) etc.

Under the Planning Act, all development, including a material change of use, unless specifically exempted under the Act or associated Regulations, requires planning permission. Planning authorities can take enforcement action if a development does not have the required permission or where the terms of permission have not been met.

42. Am I exempt from planning after 7 years?

A property, which has been used in an unauthorised capacity for 7 years or more, does not automatically become exempt from planning permission. Rather, after 7 years, the local authority is simply statute barred from initiating enforcement proceedings against the property. However, the use remains unauthorised. In this regard, individuals concerned are always encouraged to regularise their position to ensure compliance with the planning code.

43. What offences will apply?

Serious breaches of the planning code incur significant fines (€10m) and imprisonment (2yrs) or both. Generally, less serious offences under the Planning Acts (which will apply in the case non-compliance with the short term letting arrangements) carry a maximum penalty of €5,000 or 6 months imprisonment or both. Where the person continues the offence after conviction, they are guilty of a further offence for each day it continues and this carries a maximum fine of €1,500.

44. What happens when a member of the public reports a suspected breach of planning?

Planning authorities will follow up on complaints and take enforcement as necessary.

Registration/ Notification

45. Who registers?

- **Someone doing homesharing?** Yes, it's a requirement of the planning exemption provisions in a rent pressure zone.
- **Someone letting their entire home (less than 90 days)?** Yes, it's a requirement of the exemption in a rent pressure zone.
- **Executive type let?** No, executive/ corporate type lettings (which are normally for periods in excess of 14 days) are not short-term lets.
- **Holiday home?** No need to register if you have specific permission for use as a holiday home.
- **Short-term let outside of a rent pressure zone** No, registration requirements do not apply outside of rent pressure zones.

46. What information should be included in a notification?

There is a prescribed form for each of the required notifications, which outlines the information sought, and which should be submitted to the relevant local planning authority.

47. What form should the notification take?

The Schedule attached to the Planning and Development (Amendment) Regulations 2019 set out the forms required for short-term letting:

- Form 15- Start of year notification

- Form 16- This form is only required to be completed if the 90 day cap is reached during the year.
- Form 17- End of year notification

48. When do I need to submit my notification?

- Form 15- Start of year notification. It should be returned within 4 weeks of the start of each year and 2 weeks prior to the first instance of the proposed change of use.
- Form 16- This form is only required to be completed if the 90-day cap is reached during the year. It should be returned no later than 2 weeks after the event.
- Form 17- End of year notification. It shall be returned no later than 4 weeks after the end of each calendar year.

49. What information will be made public from the notifications?

The planning authorities will maintain a record of the information received, however this will not be made public.

50. What will the cost of notification be?

It is not proposed that there will be any charge associated with a person notifying the planning authority that they are availing of the short term letting planning exemption.

Regularisation

51. What about bookings I already have- Can I honour these?

Property owners affected by the new short term letting arrangements should regularise their affairs (i.e. apply for change of use planning permission) at the earliest opportunity. It is unlikely that a planning authority will take enforcement action while a change of use planning application is being determined.

Online Platforms

52. Are there any plans to regulate online platforms that facilitate homesharing and short-term letting?

The purpose of these changes to the planning code is primarily to address the longer term rental issues arising from the use of properties for short-term letting in designated rent pressure zones, which are areas of high housing demand.

The broader regulation of tourism activity and oversight of the short-term letting market is beyond the scope of the planning code and is a matter for a different Department.

53. Will online platforms be required to register with the planning authority?

No. The reforms proposed relate to new requirements of the planning code under which it is the individual who wishes to engage in short-term letting activity that will have to comply with the new provisions, including registering and notifying that activity to their local authority as required.

Queries

54. Who can I contact with queries?

Any queries in relation to the new provisions can be addressed to your relevant local planning authority.