

Aberdeenshire Licensing Boards
South Aberdeenshire Divisional Licensing Board
Supplementary Statement of Licensing Policy
Overprovision
30th November 2007 – 29th November 2010

Overprovision

Section 7 of the Act requires the Board to “produce a statement as to the extent that the Board considers there to be overprovision of licensed premises or licensed premises of a particular description in any locality within the Board’s area”.

Although this provision will not come into effect until 2009, the Scottish Executive advises that it would be good practice for Boards to undertake a similar process for inclusion within its Policy Statement at the present time.

The Board’s Policy with regard to overprovision will be published within this Appendix by 1st September 2009.

It should be noted that, separate to this duty and, in terms of S23(5)(e) of the Licensing (Scotland) Act 2005, a ground of refusal of a premises licence application is *overprovision of licensed premises or licensed premises of a particular description in the locality*. According to Regulations, the Licensing Board is not entitled to refuse a premises licence application on this ground where the application relate to a premises in respect of which a licence or certificate of registration is in force under the Licensing (Scotland) Act 1976 and the premises licence application is substantially the same (regarding size, capacity and general nature of the premises, any entertainment on the premises and licensed hours). In all other cases the Licensing Board can consider overprovision as a ground of refusal.

Occupant Capacity

The Board will take into account the occupancy capacity of premises when assessing overprovision. Overprovision may be a ground of refusal of a premises licence and may considered in an Occasional Licence application.

The Board may consider setting maximum occupancy limits to ensure the safety of persons in the premises and safe escape in an emergency. If there are concerns about crime and disorder or public nuisance, the Board may consider setting a lower maximum occupancy limit than that otherwise recommended by the Building Standards Service.

Applicants must consider various factors when assessing the appropriate capacity for premises or events which include:

- the design and layout of the premises;
- the location, availability and size of exits, including emergency exits;
- the nature of the premises or event;
- the nature of the activities being provided;
- the provision or removal of temporary structures such as a stage or furniture;
- the number of staff available to supervise customers both ordinarily and in an emergency;
- the age of the customers;
- the attendance by customers with disabilities;
- the availability of suitable and sufficient sanitary accommodation;
- the nature and provision of facilities for ventilation.

Applicants must have monitoring arrangements in place to verify the number of persons present at any point to ensure that the occupancy capacity is not exceeded.