

ARGYLL & BUTE COUNCIL BUILDING STANDARDS: CAPACITY AND OVERPROVISION

A General Guide to Question 7

Capacity for On Sales

As part of the operating plan, each premises will be required to give Argyll & Bute Licensing Board details of capacity in question 7.

The operating plan requires detail of the maximum occupancy for each premises to be calculated by reference to the Building Standards Regulations using load factors. It should be made clear that this is the very maximum number of people that could possibly fit in the premises, a number that can never be exceeded.

Included with this leaflet is some helpful information on calculating maximum capacity under the Building Standards Regulations.

It will be obvious to applicants that the Building Standards Regulations are quite limited and that **the maximum capacity should never be reached**. The maximum capacity is a theoretical number that is required for the purposes of assessing overprovision (for which see below).

This practical difference should be emphasised. Argyll & Bute Licensing Board expects that the operating capacity will always be below the maximum capacity, in many cases by a considerable margin. Applicants should not be trading to this maximum figure.

This is because the maximum capacity calculation does not take account of things like furniture (that is not fixed). For example a room containing a snooker table would have quite a large theoretical capacity but much of the space would actually be taken by the table. Similarly an area allowing for customers to be seated at tables will have a much lower operating capacity than the theoretical maximum.

What will be done with this information?

Maximum capacities will be used purely in connection with any assessment of overprovision, in accordance with guidance from the Scottish Government.

Operating capacities will be viewed in the light of the licensing objectives.

In the event that the Argyll & Bute Licensing Board disagrees with your assessments for these questions a discussion will be initiated with a view to reaching a mutually acceptable conclusion. This may necessitate consultation with building standards officers, the fire and rescue service and the police. If an agreement cannot be reached and if the Argyll & Bute Licensing Board deems it necessary in pursuance of a licensing objective (e.g. to secure public safety or prevent crime and disorder) then consideration will be given to imposing limits on the capacity in the operating plan.

What is the Significance of Like for Like Trading?

Like for like trading is essential to the issue of grandfather rights. Existing licence holders can claim limited grandfather rights where they can demonstrate that they will continue to trade on a like for like basis under the new Act.

Grandfather rights are:

- exemption from the consequences of the overprovision assessment and from the overprovision ground for refusal of a licence *where there is no change to the size, capacity or activities taking place on the premises*;
- exemption from the need to provide building standards, planning and food hygiene certificates where transfer is on a *like for like* basis;
- where transfer is on a *like for like* basis but the licensing board considers that they would nevertheless be minded to refuse the licence on the grounds of the "location, character or condition of the premises" but that suitable modifications can be made to address this, the licence must be granted and the licensee given a period of 12 months to make the necessary modifications. If the modifications are not made within this period the licence would be revoked.

Argyll & Bute Licensing Board will have limited information about the details of trading prior to the completion of the operating plan. Therefore applicants will be expected to confirm like for like trading, at the very least by self certification.

Building Regulations Guidance

The maximum capacity of a premises for building regulation purposes is calculated by taking the total floor area in square metres, excluding any area providing for *fixed* seating (bolted to the floor), and then dividing that area by a set load factor that depends upon the type of use. This calculation is used to determine the requirements for toilet facilities etc. The load factors are as follows:

| <i>Description of room or space</i> | <i>Occupancy Load Factor</i> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| Standing spectators' area. | 0.3 |
| Amusement arcade, assembly hall (including a general-purpose place of assembly), bar (public area), bingo hall. | 0.5 |
| Concourse, dance hall or floor, queuing area, mall areas in enclosed shopping centres (Class A). | 0.7 |
| Committee room, common room, conference room, dining room, licensed betting office (public area), lounge (other than a lounge bar), meeting room, reading room, restaurant, staff room, waiting room, food courts in enclosed shopping centres. | 1.0 |
| Exhibition hall. | 1.5 |
| Shop sales area (Class 1), mall areas in enclosed shopping centres (Class B). | 2.0 |
| Shop sales area (Class 3). | 4.0 |
| Art gallery, dormitory, factory production area, museum, workshop. | 5.0 |
| Office | 6.0 |
| Kitchen, library, shop sales area (Class 2). | 7.0 |
| Bedroom or study bedroom. | 8.0 |
| Bed-sitting room, billiards room. | 10.0 |
| Car park, storage and warehouse accommodation. | 30.0 |

For example: A bar with no fixed seating and an area of 100m² will have a maximum capacity of: (100/0.5) = 200

Whereas a dancefloor of the same area would have a maximum capacity of: (100/0.7) = 142

If you need assistance in calculating your maximum capacity then please seek advice from an independent building surveyor or architect

It is again stressed that actual operating capacities should be well below these theoretical maximum capacity figures.