

THE LICENSING (SCOTLAND) ACT 2005

POLICY STATEMENT 2010-13

THE HIGHLAND LICENSING BOARD

January 12th 2011

- 1 The Highland Licensing Board (hereinafter referred to as “the Board”) is responsible for the administration of the Licensing (Scotland) Act 2005 (hereinafter referred to as the “2005 Act”).
- 2 In terms of Section 5 of the 2005 Act, the Highland Licensing Board serves the whole of the Highland Council area.
- 3 **Composition of the Board’s area**

Population	2009 No	2010
		Licences
Badenoch & Strathspey	12,649	165
Caithness	25,199	202
Inverness	73,476	235
Lochaber	19,193	193
Nairn	12,207	50
Ross & Cromarty	51,631	147
Skye & Lochalsh	12,655	117
Sutherland	13,480	84
Highland	220,490	1,177
Scotland	5,194,000	

Population Density/Area	Population Density 2009
Badenoch & Strathspey	5.4
Caithness	14.0
Inverness	24.8
Lochaber	4.1
Nairn	28.8
Ross & Cromarty	10.1
Skye & Lochalsh	4.6
Sutherland	2.2
Highland	8.6
Scotland	66.7

Population Density/Area	2009	Area (sq km)
Badenoch & Strathspey	5.4	2,356
Caithness	14.0	1,805
Inverness	24.8	2,961
Lochaber	4.1	4,634
Nairn	28.8	424

Ross & Cromarty	10.1	5,108
Skye & Lochalsh	4.6	2,732
Sutherland	2.2	6,071
Highland	8.6	25,659
Scotland	66.7	77,925

Population by Settlement

Inverness (incl Culloden)	60,890
Nairn	10,948
Fort William	9,857
Wick	7,853
Thurso	7,733
Dingwall	5,813
Alness	5,469
Invergordon	4,220
Tain	4,069
Muir of Ord	3,056
Grantown-on-Spey	2,998
Aviemore	2,989
Conon Bridge	2,737
Portree	2,194
Golspie	1,621

4. In terms of Section 6 of the 2005 Act each Board must before the beginning of each three year period publish a Statement of their Policy with respect to the exercise of their functions under this Act during that period.
5. This policy will come in to force on 1st December 2010 and continue until 30th November 2013.

6. Fundamental Principles

6.1 The Board will promote and have regard to the licensing objectives:-

1. Preventing crime and disorder.
2. Securing public safety.
3. Preventing public nuisance.
4. Protecting and improving public health, and
5. Protecting children from harm.

6.2 In addition to the licensing objectives the Board recognises that it will have regard to its powers and duties under the ECHR Legislation as it affects both applicants and members of the public.

7. Overall Objectives

The 2005 Act is about regulating the sale of alcohol and premises on which alcohol is sold; and for connected purposes within the terms of the Act.

8. Licences

The Act provides for four types of licence:-

- Premises licence
- Personal licence
- Occasional licence
- Temporary licence

The Board will be responsible for issuing all four types of licence.

9. Background

Within the Highlands there are the following premises.

Off-sales only -
All others -

When the Board has concluded its Over Provision Statement for each of the three Boards, a more detailed breakdown will be available.

The Highland Board taken as a whole is believed to be the third largest in Scotland.

- 9.1 The Board will continue with the practice of looking at each application on its own merits but have developed over the transitional period uniform local conditions. The use of local conditions is dealt with later, but the Board will continue to exercise their own discretion in the application of conditions.

The Boards are well aware of the important role Licensed premises have in the Highlands and the positive contribution they make to Towns and local communities both in terms of their social and economic values. The Boards wish to continue where possible to foster and encourage this.

At present 27900 people are employed in the distribution, hotel and catering trade representing over 25% of the total employees in the Highlands.

10. Hours

- 10.1 In considering any application, the Board will determine the application on its own merits having regard to the licensing objectives and the terms of the Act.

Any applications received from premises wishing to open for twenty-four hours will only be granted in limited exceptional circumstances.

As a general rule the Board endorses the guidance given by the Scottish Executive that permitted hours for up to fourteen hours is reasonable.

10.2 Off Sales

The opening hours every day are from 10am to 10pm. All subject to terms of Section 63 of the Act.

10.3 Early Hours

The Board will consider all approving operation plans for premises to open at 9.00am in the morning for premises which are food-led operations. For the purpose of this Policy Statement the Board regards premises as “food-led” where the sale of alcohol is ancillary to the provision of food and is only sold to persons taking table meals for consumption by such person as ancillary to the meal.

10.4 Premises Opening after 11pm

The Board will expect premises opening after 11.00pm in the evening would have carried out an assessment to ensure that operation of the premises will not cause any public nuisance.

10.5 Late Hours

The Board is aware that there are Regulations on late opening. For the purpose of this Policy the Board regards late opening as after 1.00 a.m. The Board will have regard to mandatory and discretionary conditions which might be attached.

The Board is aware of concerns over an increase in the number of assaults occasioned by the use of glasses and bottles and will seek to attach as a condition for any premises trading after 1.00a.m., all drinks served after 9.00pm., that whilst the premises are operating within their permitted hours, all drinks will be dispensed in plastic containers which, for the avoidance of doubt, includes the service of alcohol or soft drinks in bottles.

The Board will anticipate that these will be located in a town centre. If the premises are a discotheque within the operating plan the Board will anticipate no children or young persons permitted except for specific events catering for under 18 year olds; if the premises are stated to be a discotheque the Board will anticipate a dance floor occupying approximately 30% of the layout of the premises; an admission charge; cloakroom facilities; systems of ensuring occupancy numbers are not exceeded; evacuation procedures.

Premises which are not predominantly discotheques will have other significant forms of entertainment and the sale or supply of alcohol will be ancillary to the entertainment provided.

10.6 Other Hours

The Board recognises that premises operating in residential areas can have a significant impact on the immediate community and this will be taken into account in considering all permitted hours. The underlying objective is to protect the wider public interest rather than commercial considerations.

10.7 The Boards will continue to support local Schemes such as Pub watch, Safer City Centre Initiatives and Door Safe Schemes. The Board recognises that Voluntary Schemes amongst licensees can reduce public disorder and

nuisance offences taking place within local communities. Where appropriate, the Board may require membership of such Schemes.

- 10.8 The Boards standard hours throughout the Highlands are published on the Boards website

11 National and Local Events Conferences

The Board is aware of the position of the Highlands as a tourist destination and that the Highlands offer unsurpassed opportunities for a host of outdoor pursuits. Its historical sights, castles, distinctive culture and language are a major draw. The Board wishes to support the tourist infrastructure and has framed its policy have regard to those particular objectives. It will, in exceptional circumstances, grant extensions beyond the ordinary permitted hours but the fact that an event is taking place in the Highlands is no reason on its own to extend permitted hours. Any extension will only be granted after careful consideration and having regard to the particular event may require additional conditions to manage the event.

12 Provision of Hot Food

- 12.1 The Boards recognise that the provision of food in all licensed premises will help achieve the licensing objectives.
- 12.2 In particular premises which open before 11am or operate after 1.00am.

13 Conditions

- 13.1 The Board has a number of local conditions. Conditions are attached to a licence to secure the licensing objectives and any conditions will be consistent with Section 27 of the Act and will only be applied if the Board is of the view that they are relevant to the activity taking place within the premises.
- 13.2 The Board will not use conditions to achieve results that can be achieved under other legislation or by other agencies having an interest in licensed premises.
- 13.3 All conditions are published on the Licensing Board's website but the Board recognises that from time to time it will impose further local conditions, either at its own instigation or that of the Licensing Standards Officer or the applicant for a licence.
- 13.4 Licensing Standards Officers, in reporting to the Board will recommend any Local Conditions which the Officer considers appropriate.
- 13.5 The Board has completed the harmonisation of local conditions and will take steps to introduce these to all licensed premises following on the introduction of the Criminal Justice(S) Act 2010 and the Alcohol etc (S) Act 2010

14. Over Provision

The Board welcomes the requirement to state the extent to which the Board considers there to be overprovision of:-

- a. Licensed premises, or
- b. Licensed premises of a particular description, in any locality within the Board's Area.

The Board will finalise its statement in 2011.

15. Children

- 15.1 The fifth objective requires the Board to consider the position of children where the operational plan indicates that there will be parts of the premises set aside specifically for the use of children and young persons and any area to which children and young persons have access. The Board will expect premises to be equipped with high chairs, suitable changing facilities.
- 15.2 Licensees and staff should be alert to the dangers posed to children when the adults they are with are under the influence of alcohol and should have adequate child protection policies and training to handle such situations.
- 15.3 The Board supports Test Purchasing Operations to be carried out by Northern Constabulary as operational needs demand.

16 Licensing Standards Officers

The Licensing Standards Officers will have the following responsibilities:-

- Guidance
- Mediation
- Compliance

- 16.1. The Board recognises that the Licensing Standards Officers will have a key role in the new regime.
- 16.2 Whilst not being in a position to give legal advice or make applications or objections on behalf of any party, the Licensing Standard Officers will be expected to advise both Licensing Trade and the public on their responsibilities and rights.
- 16.3 The Licensing Standards Officers will be expected to mediate between the public and the Licensing Trade in order to try and resolve problems without involving the Licensing Board.
- 16.4 The regulatory role of the Licensing Standard Officers will be to ensure that licensees comply with the Operational Plans and the Licensing legislation.
- 16.5 Where an objection has been lodged or a review is under consideration, the Licensing Standards Officer will not have a mediation role.

- 16.6 The Board through the Council's website will offer guidance on the work of LSO's and provide contact details.
- 16.7 In addition it is understood that the Licensing Standard Officers will carry out The Highland Council's responsibilities for inspection under the Gambling Act 2005.

17. Scheme of Delegation

The Scheme will be subject to review from time to time and is published on the Boards website. The last scheme was approved on 5th October 2010

18. Other Policies

The Board recognises the importance of Equal Opportunities legislation to ensure that people are not disadvantaged because of their age, gender, race, disability, religion or belief, or sexual orientation. In addition, there are specific duties on public sector bodies, including Licensing Boards, to positively promote equal opportunities in the areas of race, gender and disability. The Licensing Board is committed to tackling discrimination, promoting equality, participation and good relations in line with the commitments stated in the Highland Council's equal opportunities policies and equality schemes.

The Race Relations (Amendment) Act 2000 introduced the concept of a positive race equality duty to public bodies in 2001. A new public sector duty on disability equality came into effect in December 2006. A duty on gender equality came into effect in April 2007. These duties have a common aim of ensuring that the public sector works to promote equality and eliminate discrimination in all of its activities. Each piece of legislation focuses upon delivering equality in the most appropriate way for disabled people, for different ethnic groups or for women and men, as the case may be. The Licensing Board will publish its equality scheme setting out their arrangements to meet these public sector duties and the Board will expect licence holders to address equality issues where relevant

18.1 The Board recognises it has not complied with the full terms of the EC Directive in respect of electronic applications. The Highland Council intends to provide this facility in 2011

19 Other Agencies

The Board recognises that the licensing law is not the primary mechanism for general control of nuisance in anti social behaviour by individuals. The Board recognise that in disposing of licensing applications, and the frame of this Policy, the Board will take into account matters relating to local Crime Prevention, Community Safety Strategies, Health, Planning, Transport, Tourism, Race Equality Schemes and Disability Discrimination Schemes. In urban areas recognition will have to be given to Town Centre Management Schemes and the night time economy.

20. Lastly

No Statement of the Policy will override the right of any person to make representations on an application or seek a review of a personal premises licence

The Highland Licensing Board

Licensing Board Meeting 14 June 2011

Agenda Item	
Report No	HLB /10

APPENDIX -Occasional Licences and Extended Hours

Report by the Clerk

Summary: Report on policy for Occasional Licences and Extended Hours – Appendix to Policy

1. The Highland Licensing Board as a general principal has a presumption against departing from normal Board Policy Hours in respect of 1am termination for licensed hours, Monday to Saturday and 12 Midnight for Sundays.
2. However, in circumstances where applicants are able to demonstrate that a greater extension of Licensed Hours beyond those mentioned previously is required to cater for a 'special event' of local or national significance, the Board will consider such applications where they are accompanied by supporting evidence in respect of their significance from Multi Agency Planning Partnerships, Promoters and Community representatives and the Chief Constable. Past examples are the MOD, large music festivals, six day motor cycle trials, International Conferences and the Scottish pen.
3. In respect of any grant of extended hours the Board, dependant on the particular circumstances pertinent to each application, may attach such conditions as they see as necessary to meet the Licensing Objectives. Such conditions may include the provision of stewarding, first aid cover, and provision of food and use of plastic or polycarbonate drinking vessels, as examples.
4. The Board Policy for the commencement of Licensed Hours is 11am Monday to Saturday and Midday on Sundays. The Board may consider applications for earlier opening from 10.00am from Golf Clubs for specific oompetitions where food is also available.
5. For the Festive period the Board will offer a 'General Extension' under Section 67 of the Licensing (Scotland) Act 2005 for all on-sale premises until 2am on Christmas Eve, Christmas Day and Hogmanay. The 'General Extension' will be communicated to all on-sale premises licence holders timeously by the Board.
6. In relation to Occasional Licence applications the Boards approach will be co-terminous with their Licensed Hours Policy with the same criteria for exceptions as outlined within this Extended Hours Policy. Occasional Licences applied for on the same dates as those within the Festive Hours Policy may apply for hours up to 2am.

Recommendation: Members are invited to adopt the appendix to Policy Hours.

Signature:

Designation: Clerk to the Board

Date: 14 June 2011

Background Papers: The Licensing (Scotland) Act 2005