

# AFR

Liquor Licensing

by Bill Brogan

## Liquor Licensing

**The Liquor Licensing Ordinance, 2006 came into effect on 6 February 2006, and replaced the previous Liquor Licensing Ordinance dating from 1993. The 2006 Ordinance is designed to place tighter controls over licensees and/or their nominated designated official, and hence the running of liquor licences generally. Five categories of licence existed under the 1993 Ordinance and ten categories now exist under the 2006 Ordinance.**

**The categories defined in the 2006 Ordinance are as follows:**

- Category A Standard Licence
- Category B Residential Licence
- Category C Hotel Licence
- Category D Club Licence (private members)
- Category E Nightclub Licence
- Category F Port Licence (on sales)
- Category G Passenger Vessel Licence
- Category H Casino Licence
- Category I General Off-Licence
- Category J Port Off-Licence (duty-free sales)

With regard to costs in relation to the licences listed above, a wide range of varying fees pertain to each licence. For example, a Category A Licence fee is set at £500 and the Royal Court fee for the application is set at £250. In addition to this there is a fee for a report compiled for the Court by the Constables of the parish, which is either £50 or £100. This is dependent upon the category of licence applied for.

An individual licensee or a body corporate may hold the relevant licence. Should a body corporate apply for a licence, it is required to nominate an individual as its designated official. One area of concern to prospective liquor licence holders is that the Royal Court is extremely strict in ensuring that any applicant is seen to be a fit and proper person to have conduct of the licence. The most common applications that appear before the Royal Court are for a change of Licensee or Designated Official. This mainly occurs because a current licence holder may choose to leave their employment and/or there is a restructuring programme of a company's business.

A licence application will be heard in the Royal Court before the Bailiff or his Deputy and at least three Jurats, which sits on nominated Tuesdays throughout the year. The Ordinance requires that an applicant notifies the following departments of its intentions at least 28 clear days prior to the court hearing:

- The Home Department
- The Constables of the parish
- The Environment Department, and
- (in the case of a Residential or Hotel Licence) 'Visit Guernsey' (previously known as the Tourist Board).

Each of the departments listed above will then provide a report which the Court will require at the hearing. The purpose of these reports is to assist the Royal Court in making its decision whether to grant the application. For example, questions may be raised as to the suitability of the nominated licensee or designated official for the conduct of the licence as a result of any one or more of these reports. This does not preclude the application from proceeding before the Royal Court. However, the Court does take note of any objection raised and will no doubt listen carefully to the Advocate's submission.

In certain applications, the Court will also require architect's plans of the premises which clearly show the outline of the licensed premises, bar area, fire exits and, if applying for an Under 18's Permit, where the under 18's are permitted. The plans will need to be prepared in accordance with Liquor Licensing Rules. However, should a licence already be in existence, new plans need not be provided.

There can be confusion as to whether prospective applicants should apply for an Under 18's Permit in conjunction with the relevant category. The main crux of the confusion concerns the definition of a bar. Under the 2006 Ordinance, a bar is defined as "including any place exclusively or mainly used for the sale and consumption of intoxicating liquor". To simplify this definition, licensed premises used mainly as a restaurant or café are not used exclusively or mainly for the sale and consumption of intoxicating liquor. Therefore, along with a Standard Category A Licence, a restaurant or café does not need an Under 18's Permit. However a public house or a sports club probably does.

This article demonstrates some areas which may cause confusion. There are many more areas in the legislation that may seem confusing, for example, is there a need to produce plans? A requirement to publish in La Gazette Officielle? Are there any extra hidden costs? At AFR Advocates our Liquor Licensing team can fully explain the process and answer any queries you may have and ensure that your application is dealt with expeditiously and the whole process runs smoothly.

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