

What's up in Ireland?

Suzanne Davies, director of **Clifton Davies Consultancy Limited**, along with **Máire Conneely** and **Andrew Spratt** of Irish law firm **A&L Goodbody**, focus on licensing issues in Northern Ireland and the Republic of Ireland

In the Republic of Ireland (ROI), the majority of licences permitting the sale of alcohol are still granted by the courts. Applicants for new public house or hotel licences must: i) prove that they have at least a tenant's interest in the property, ii) prove suitability of the premises to be licensed, and iii) prove compliance with planning and fire safety regulations. Applicants also need to extinguish a licence attached to another licensed premises before a new licence can be granted. For a new public house licence, applicants must also show that there is an inadequate number of existing public houses in the vicinity.

The Northern Ireland (NI) licensing regime is entirely distinct from the ROI. For public houses or 'off-sales' premises, a limited number of licences are available. For such premises, applicants must surrender an existing licence before they can obtain a new licence. Like the ROI, applicants must also prove an inadequacy of existing licensed premises within the vicinity. Objections to new applications are frequently submitted by reference to this provision.

Approval in principle

In the ROI, operators seeking a new public house licence or hotel licence often seek a Declaratory Order from the court so that they have approval before going to the expense of purchasing a premises or carrying out works. The Declaratory Order is approval in principle that the court will grant the licence if premises are built in accordance with approved plans.

In NI, applicants can apply for the Provisional Grant of a licence before building a new premises or making significant changes to existing premises. Getting a Declaratory Order or a Provisional Grant first also means that any objections can be dealt with at an early stage.

Operating a restaurant

A number of options are available to restaurant operators in the ROI.

- A Publican's Licence permits the sale of all beer,

wine and spirits. Applicants will need to extinguish an existing licence, thereby increasing costs.

- A Special Restaurant Licence permits the sale of wine, beer and spirits; however there can be no public bar in the restaurant – all alcohol must be served with food.
- Another option is a Restaurant Certificate which is open to operators holding an on-licence such as a publican's on-licence or a wine retailer's on-licence. One advantage for publican's on-licence holders is the entitlement to sell alcohol for one additional hour after normal closing time. For a wine retailer's licence holder, this gives permission to sell both beer and wine, as well as the opportunity for more sales during the hour after normal closing time. However for wine retailer's on-licence holders, alcohol can only be served with food.

In NI, a restaurant licence holder can also only serve alcohol when it's ancillary to the provision of a meal. Customers cannot purchase alcohol outside of this arrangement unless the premises has a public house licence.

For more on licensing in Ireland, contact Joe Kelly or Máire Conneely, joint heads of A&L Goodbody Leisure & Licensing Dublin, or Andrew Spratt, associate of A&L Goodbody Belfast. algoodbody.com



Andrew Spratt

Q&A with Máire Conneely



Máire Conneely

Q: How much does it cost to 'buy' a licence for extinguishment in the ROI?

A: Technically you can't 'buy' a licence for extinguishment. Instead you must agree with the holder of an existing licence that he/she will agree to extinguish their licence for consideration. Currently, the cost of obtaining consent to extinguish a licence is in the region of €50,000 to €60,000.

This is a major cost that must be factored into any project. While a licence attached to a public house retains its value in the sense that it can later be extinguished for value in return for a new public house licence for another premises, this is not the case for a licence that is 'bought' to allow a public bar in a hotel.

Q: Are Entertainment Licences required?

A: Most public houses or hotels in the ROI also have a 'Dance Licence' and a 'Music and Singing Licence', but this will depend on the type of events held at that premises. These licences also involve a court application and they must be renewed annually by the court.

Q: My NI-based company is hosting an internal event, complimentary drinks will be provided from a temporary bar up to a point, employees will be able to purchase their own drinks thereafter. Do I need to have a licence?

A: NI law requires that the sale of alcohol can only take place in a premises that is licensed. In this scenario, where alcohol is merely given to guests (who have not paid any entry fee) there is no requirement for a licence.

However, as soon as an alcoholic drink is bought by a guest, then yes a licence needs to be in place to make that sale lawful. If the event is held at a public house, conference centre or hotel, the operator of those premises will likely hold a licence for these purposes. However, if no licence is in place, the holder of a bar licence could also apply to court for an occasional licence in respect of premises which are not usually licensed.

Clifton Davies Consultancy Ltd



Clifton Davies Consultancy Limited specialises in all licensing, gambling and regulatory issues affecting the pub and bar industry. The views expressed by David Clifton and Suzanne Davies are given without any assumption of liability on their part. If you have any questions, do get in touch and they will be pleased to provide answers, either via this page or direct.

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