

BETTING, GAMING & LIQUOR LICENSING

## Local Producers

*- a new category of liquor licence*

On 26 August 2021 a Bill aimed at modernising Northern Ireland's liquor licensing laws received Royal Assent. The Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2021 was nine years in the making and represents the first major change to our licensing laws since 1996.

Amongst the various long-awaited and much welcomed licensing reforms are some important changes for local breweries, distilleries and cideries. These changes are not expected to take effect for some time with the legislation being introduced in phases between 2021 and 2023.

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### What is a “Local Producer”?

The Licensing (Northern Ireland) Order 1996 has been amended to include for the first time a “local producer’s licence” which applies to premises used for the production of liquor, by a business carried on wholly or mainly in Northern Ireland. Such premises now fall under the categories of premises which may be subject to a liquor licence.

A local producer’s licence is primarily aimed at enabling local artisan craft brewers and distillers to sell their own products for consumption off the premises, whether that be at the end of a tour in their brewery or at another venue, such as a farmers’ market. The scope for on-sales at the place where the liquor is produced (commonly known as a taproom) is certainly more limited, with some in the industry criticising the legislation for not going far enough to help develop their food, drink and tourism offering.

### Where can local producers sell their liquor?

#### *Off-sales at other licensed premises*

Under the new legislation, local producer can sell their own liquor at a specified licensed premises (including hotels, conference centres, indoor arena and outdoor stadia). The sale must be:

- a. for consumption off the licensed premises; and
- b. ancillary to an event held wholly or mainly to promote food, drink and craftwork produced in Northern Ireland or relating to agriculture in Northern Ireland (such as artisan and farmers’ market type events).

Failure to comply with these requirements will be an offence punishable by a fine up to £2,500 or imprisonment up to 3 months, or both. The holder of the local producer’s licence must at all times display a notice at the point of sale and failure to do will be an offence punishable by up to £1,000.

#### *Off-sales at unlicensed premises*

Once the legislation comes into force, local producers will be able to sell their own liquor at unlicensed premises in certain limited circumstances. The sale must be:

- a. for consumption off the premises; and
- b. ancillary to a public event which is being held at the premises.

The following steps must also have taken place prior to the event:

1. The Department for Communities must publish a statement that the event is being held to promote food, drink or craftwork produced in Northern Ireland and is of importance to the area in which it is being held;
2. The Police Service of Northern Ireland must provide written approval for the sale of liquor at the event for consumption away from the place where the event is being held; and
3. The Police Service of Northern Ireland must provide the holder of the local producer’s licence with written approval for the sale of liquor at the event.



Both the licence holder and the organiser of the event should be pro-active in seeking these approvals well ahead of the planned event to comply with the strict time limits set out in the legislation.

It will be an offence to sell for consumption on the premises or where the sale is not ancillary to an appropriate event, punishable by a fine up to £2,500 or imprisonment up to 3 months, or both. The licence holder is required at all times to display a prescribed notice at the point of sale and failure to do so is an offence punishable by a fine up to £1,000.

#### ***The sale and consumption of liquor on a local producer's production premises***

Local producers may be permitted to sell liquor they have produced on their own premises for consumption on that same premises. This is commonly referred to as a "taproom" licence.

A local producer must first apply to the court for a suitability order to specify any part of the premises as suitable for the sale and consumption of their liquor. Once that has been granted, a local producer can then apply for authorisation to sell their own liquor for consumption in the part of the premises which has been deemed suitable between the limited hours of 4.00pm and 10.00pm.

A maximum of 104 authorisations can be granted to a licence holder in any year with Christmas Day being excluded. In practice, therefore, where a local producer applies to use their licence on two days per week, customers may purchase and consume that liquor at the premises for a maximum of 12 hours a week. Notably, a local producer who is permitted to sell liquor for consumption on the production premises will not be allowed to avail of an occasional licence applied for by a partner pub.

The holder of a local producer's licence may only sell liquor which was produced on the premises. Where the sale is for consumption on the premises it must be strictly in accordance with the terms of that licence. Failure to comply with these requirements will be an offence punishable by a fine up to £2,500 or imprisonment up to 3 months, or both.

#### **Samples**

Apart from the "taproom" scenario where liquor can be produced and consumed at the production premises, consumption of the local producer's liquor on their own premises will be limited to the provision of samples. Any sample must however form part of an organised tour of the production premises and there must be no charge for the sample separate from the charge for giving the tour. The maximum amount of any

sample will be set out in secondary legislation and licence holders should be mindful of these restrictions as it will be an offence to provide samples in excess of the specified amount for consumption on the premises, punishable by a fine up to £1,000.

Samples may also be given free of charge for consumption at the farmers' and artisan market type events, as an inducement to purchase, again subject to compliance with maximum quantities to be identified in secondary legislation.

#### **Remote sales**

Under the new legislation, where a sale takes place in any way other than in person, the place of dispatch in Northern Ireland must be licensed to sell liquor for consumption off the premises. A local producer's licence will therefore permit local producers to sell their own liquor products remotely from their premises.

#### **Conclusion**

The new legislation places a duty on the Department for Communities to appoint an independent person, within one year of the legislation coming into force, to undertake a review of our licensing system. We may therefore see further licensing reforms for local producers in the future.



Please contact our Licensing team for further information.

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