



Economy

Consultation: Proposed amendments to Licensing (Jersey) Law 1974

DECEMBER 2024



Introduction

This consultation seeks your views on proposed changes to the existing Licensing (Jersey) Law 1974 (the Law).

The proposed amendments follow consultations with relevant Government departments, Ministers and other stakeholders including the Royal Court, parishes and uniformed services, as well as with industry groups.

The purpose of the consultation is to obtain the views of stakeholders and the wider community, and to promote discussion, on the proposed amendments. Responses will inform the law drafting process in 2025 and the proposed amendments to the Law.

Background

The Licensing (Jersey) Law was introduced in 1974 to regulate matters relating to the sale and consumption of intoxicating liquor. The law has been amended occasionally since then, and the Minister for Sustainable Economic Development (**the Minister**) has now committed to updating it more fully with the intention of ensuring the licensing regime is modern, proportionate, and fit for purpose, and in order to reduce barriers to business; a commitment in the Common Strategic Policy 2024-2026.

The proposed amendments cover five broad areas:

- Section A: The approval and amendment process for licences
- Section B: The simplification of licence categories
- Section C: The updating of licence conditions
- Section D: Enforcement powers for the Emergency Services and parishes
- Section E: Miscellaneous other amendments

This paper sets out the proposed changes are set out in detail, with questions for each section.

Please note that this consultation does not address aspects of the Law which have not been included within the scope of the proposed amendments, such as the age of sales, conduct of Parish Assemblies, sale of intoxicating liquor on board ships while in port etc. Additionally, matters associated with the consumption of alcohol, but not within the remit of the Licensing Law, such as impôt duty, are similarly omitted.

How to respond

Responses to the question set out within this document (and summarised in Appendix B on page x) can be submitted no later than Sunday 26 January 2025:

- a. online at gov.je/consultations
- b. by email to Economy@gov.je with the subject line FAO Licensing Law Consultation

- c. in writing to
Licensing Law Consultation
Department for the Economy
Government of Jersey
Union Street
St Helier
Jersey
JE2 3DN

How we will use your information

The information you provide will be processed in compliance with the Data Protection (Jersey) Law 2018 for the purposes of this consultation.

For more information, please read the [Department for the Economy's privacy notice](#).

The Government of Jersey may quote or publish responses to this consultation including (sent to other interested parties on request, sent to the Scrutiny Office, quoted in a published report, reported in the media, published on www.gov.je, listed on a consultation summary etc.) but will not publish the names and addresses of individuals without consent.

Confidential responses will still be included in any summary of statistical information received and views expressed. Under the Freedom of Information (Jersey) Law 2011, information submitted to this consultation may be released if a Freedom of Information request requires it but no personal data may be released.

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Section A: The Licensing Decision-Making Organisations

Licensing Assembly

Under the current Law, liquor licences are controlled by the Licensing Assembly, which is constituted from the Jurats and headed by the Bailiff.

The Licensing Assembly typically meets quarterly to consider applications, and extraordinary meetings may be convened with a quorum of the Bailiff and five Jurats¹.

This system differs from other jurisdictions², and possesses some limitations, particularly:

- As the Jurats and the Bailiff comprise (in other circumstances) the highest court in Jersey, licensing applications are effectively sent 'straight to the top' on first consideration and this creates difficulties in managing appeals, which should naturally flow to a higher authority for consideration. This notwithstanding, appeals against Licensing Assembly decisions may be subject to judicial review by the Royal Court.
- The infrequency of the Assembly's meetings can lead to delays in the approval of applications.

Regulatory Authority

To ensure appropriate Ministerial involvement and oversight, and to allow for greater resources to be devoted to processing individual applications, this consultation proposes replacing the current Licensing Assembly with a dedicated Regulatory Authority.

The proposed Regulatory Authority would be appointed and overseen by the Minister and, by extension, the States Assembly. The Authority would be given statutory responsibility for issuing and amending liquor licences.

It is considered that Article 6 of the Law, which prescribes the conduct and considerations of the Licensing Assembly could be largely deleted to allow for the Regulatory Authority to make determinations in an effective and agile manner.

Furthermore, the procedure for applying under Article 8 for the provisional grant of licences will need to be similarly updated to allow applicants to apply via the Regulatory Authority.

The advantages of the proposed dedicated Regulatory Authority include:

¹ This is greater than the *Inferior Number* quorum used for the Royal Court which requires the Bailiff, or presiding judge, and two Jurats.

² In the UK for instance, local licensing authorities are composed of dedicated adjudicators.

- allowing for applications, or requests for a change in licence conditions, to be considered at any time of year, significantly expediting the current process for applicants
- reducing the workload and responsibilities currently placed on members of the Royal Court.
- allowing for a clear appeals mechanism, with the decisions of the Regulatory Authority subject to appeal in the Royal Court or via the Licensing Assembly in a revised role. It is suggested that a statutory right of appeal be included within the Law, this could be modelled on the right of appeal under Article 45 of the Gambling (Jersey) Law 2012 ('the Gambling Law').
- conditions being set by the Authority which could be tailored to the unique circumstances of a business, its neighbours, location, fire safety, policing considerations and the broader hospitality sector (this is further explored in Section B: Licence Categories).
- clearer Ministerial oversight and policy guidance on the issuing of licences (this is addressed in Section E: Control of drinks promotions and minimum pricing, on page 28 of this consultation).

Jersey Gambling Commission as the Regulatory Authority

In the interest of ensuring a smooth transition and mitigating costs, it is considered desirable to delegate the responsibilities of a Regulatory Authority to an existing regulator.

The proposed authority would be the Jersey Gambling Commission.

The Gambling Commission is established under the Gambling Commission (Jersey) Law 2010 and is responsible for licensing, registration and regulation of gambling, which had previously been overseen by the Licensing Assembly.

The functions of the Gambling Commission are set out below and contain provision for further functions to be transferred to the Commission via Article 3(1)b:

- (1) The functions of the Commission are –
 - (a) the general supervision of gambling, including in particular –
 - (i) supervision of providers of gambling services, and
 - (ii) investigation of whether any person is complying with, contravening, or committing an offence under an enactment relating to gambling; and
 - (b) any other function conferred on or transferred to the Commission under this Law or any other enactment.

The Gambling Commission is overseen by the Minister who appoints Members of the Commission and operates a Memorandum of Understanding with the Commission.

The Minister is further empowered under Article 5 of the Gambling Commission (Jersey) Law 2010 to provide guidance to the Commission in the discharging of its functions and it is considered that a similar provision could be made in the amended Licensing Law.

The Gambling Commission is receptive to assuming responsibility for alcohol licensing and there are a number of synergies between regulating gambling and alcohol as well as the example set by other jurisdictions such as Ontario (Canada). The expanded remit would necessitate a new title for the Commission such as the *Alcohol and Gambling Commission* and for the redirection of fee income.

Further detail is set out in Section E, Fees which would likely need to be directed to the Gambling Commission (and set by the Minister) to fund their regulatory activity.

Ministerial Oversight and Alcohol Policy Framework

A number of Ministerial portfolios include different aspects of alcohol policy, and it is therefore suggested that an Alcohol Policy Ministerial Group (APMG) be established to oversee the regulation of alcohol licensing and to develop an Alcohol Policy Framework.

The Alcohol Policy Framework would inform the work of the Regulatory Authority, Government and the Emergency Services, and would set out the Government's strategy to support the on-licence and off-licence sectors.

Since both the Licensing Law and the Gambling Commission (which is proposed as the Regulatory Authority for the licensing of alcohol) are overseen by the Minister for Sustainable Economic Development, it is suggested that the APMG should be chaired by the Minister for Sustainable Economic Development.

The group could also include:

- Minister for Health and Social Services
- Minister for Justice and Home Affairs
- Minister for Children and Families
- Attorney General

It is not considered that the APMG would need to be established as a statutory requirement, since Ministers would remain accountable for their own areas of responsibility and future Governments may wish to change the oversight arrangements.

A similar approach is used in the management of Ports of Jersey via the Ports Policy Ministerial Group which has developed the Ports Policy Framework. Ministers remain responsible for their respective policy areas, but the Ports Policy Ministerial Group provides a forum for collective discussion and decision making.

Commented [AM1]: There are a number of steps here, which I think need to be set out as suggest in 'Intentions' @Olivia Chaplin , do you have any thoughts?

Commented [AM2R1]: Plus, what will the Gambling Commission be called?

Intention:

- That the responsibilities of the Licensing Assembly be assumed by a Regulatory Authority
- That the Jersey Gambling Commission be appointed as the Regulatory Authority for
- That an Alcohol Policy Ministerial Group be established to oversee the Government's responsibilities in relation to alcohol regulation and to provide direction to the Regulatory Authority.
- That the Alcohol Policy Ministerial Group produce an Alcohol Policy Framework to provide guidance to the Regulatory Authority in advance of the commencement of any changes made to the Law

Parish Assemblies

The Minister has given a clear direction that any changes to the Law should preserve a role for parishes and Parish Assemblies. Parish Assemblies provide an important opportunity for the community in which a licensed premises operates to give views as part of the application process.

Currently, every application, before being submitted to the Licensing Assembly, must be considered by the parish assembly of the parish concerned, and the Parish Assembly shall recommend to the Licensing Assembly whether or not the application should be granted.

Assemblies can create delays and uncertainty in the application process because of:

- the prescriptive nature of the Law on the conduct of the Parish Assemblies, which includes the requirement that the premises is inspected by the parish
- the contrasting approaches taken by different parishes towards fulfilling the requirements of the application process

Consequently, it is suggested that the inspection of premises as part of a licence consideration (Articles 23, 39, 47, 55, 69) should be a requirement of the Regulatory Authority, rather than the Connétable. The Regulatory Authority would then be responsible for presenting a report to the Connétable or Parish Assembly to allow for them to make a recommendation.

In making a recommendation, this paper proposes to enable the Connétable of a parish to:

- endorse or oppose an application without convening a Parish Assembly, or
- to call a Parish Assembly. It should be noted that parishioners would still have the ability to call a Parish Assembly regardless of the Connétable's judgement and could do so via a requête which requires ten signatures to call.

Commented [CD3]: Do you have any comment on maintaining the parish role in licensing?

Notice of a Connétable's recommendation to the Regulatory Authority would be published on the Regulatory Authority's website and a short notice period be required prior to consideration of the application by the Authority. This would allow for parishioners to call a Parish Assembly if one has not already been held.

Intention:

- That the provisions for Parish Assemblies be left unchanged but should be qualified with the rights of the Connétables to recommend or oppose an application **OR** convene a parish assembly.
- That a notification and notice period be included in instances where a Connétable makes a recommendation to the Regulatory Authority without recourse to a parish assembly
- That the inspection of premises as part of a licence consideration should be a requirement of the Regulatory Authority, rather than the Connétable.

Section A Questions

1. Do you agree that the Licensing Law should be updated?
 - a. Yes
 - b. No
 - c. Not surePlease comment
2. Please give your comments on the proposals in Section A
3. Do you agree that the licensing process should be run by a Regulatory Authority?
 - o Yes
 - o No
 - o Not surePlease comment
4. Do you agree that the Gambling Commission should be appointed as the Regulatory Authority?
 - o Yes
 - o No
 - o Not surePlease comment
5. Should the Licensing Assembly be reconstituted as the court of appeal for licensing matters?
 - o Yes
 - o No
 - o Not surePlease comment

6. Do you agree that parishes should continue to give their views as part of the licensing process?

- Yes
- No
- Not sure

Please comment

7. Do you agree that Connétables should have the ability to provide parish views on licence applications without having to call a Parish Assembly?

- Yes
- No
- Not sure

Please comment

Section B: Licence Categories

Introduction

The current Law provides for seven different types of licences, which are set out in Article 2 of the Law as:

- first category, “the Taverner’s Licence”
- second category, “the Residential Licence”
- third category, “the Restaurant Licence”
- fourth category, “the Comprehensive Licence”
- fifth category, “the Club Licence”
- sixth category, “the Off-Licence”
- seventh category, “the Entertainment Licence”.

This multiple-category approach can create complications. For example, a hotel may be required to possess multiple licences, each with contrasting conditions and all operating in parts of the same premises at the same time.

By contrast, the UK operates only one category of on-licence. The conditions of each licence are developed by the relevant licensing authority according to the needs of the business, and the specific context in which it is operating. This approach provides the most flexible and responsive outcome as it allows the licensing system to meet the needs of each business and allows the wellbeing of nearby residents and other businesses to be considered on a case-by-case basis.

This case-by-case approach is possible because the UK’s local licensing authorities are able to devote their full attention to the consideration of licences and to tailoring individual licence conditions. In Jersey, as the Licensing Assembly is comprised of the Bailiff and Jurats whose ambit extends well beyond licensing, it is unrealistic to expect the same level of resourcing to be directed to individual applications.

Under the proposals outlined in Section A, a dedicated Regulatory Authority would replace the role of the Licencing Assembly allowing for each business to be granted a ‘bespoke’ licence developed from a set of templates and informed by established Ministerial guidance but conditioned individually.

Proposal for three categories of licence

This paper proposes three categories of licence:

- Single on-licence
- Off-licence
- Temporary licence

Details of each of these, and how the Regulatory Authority would apply them, are set out below.

A single on-licence category

Having a single category for all on-licence businesses would allow for more agility in licence conditions, with the Regulatory Authority applying tailored conditions appropriate to the needs of the business, its neighbours, parishioners, policing considerations and the wider hospitality industry.

It would also allow for mobile businesses to possess licences, with conditions tailored to the specific context in which a business operates including season-specific or location-specific opening hours. These conditions would be based on broad guidelines set by the Minister and require consultation with the Comité des Connétables if it is not clear which parish(es) a mobile business will be operating in.

In replacing the existing six on-licence categories with a single category special care would need to be taken to ensure that the interests of existing businesses were protected. The transitional arrangements proposals in Section E go into further detail on how this might be achieved. Similarly, Section D includes reference to Exclusion Orders made under the Licensed Premises (Exclusion of certain persons) (Jersey) Law 1998, typically such persons are excluded from specific licence categories (most frequently categories 1, 4 and 7) and this would need to be managed during the transition period.

Provision could also be made to allow for some on-licensed businesses (particularly restaurants) to provide off-licensed trade without requiring an additional licence. This would particularly benefit those premises offering a takeaway service.

Intention:

- That licence categories 1, 2, 3, 4, 5 and 7 be replaced with a single on-licence category with discretion left to the Regulator to attach specific licence conditions according to Government policy.
- That relevant on-licence providers, such as restaurants offering a takeaway service, be able to engage in off-licensed trading without the need for a separate licence

Off-Licence

This category has the fewest restrictions, and it is not considered necessary to significantly amend Part 9 of the Law, which is concerned with the conditions for off-licence premises.

It is recognised however that the current provision creates significant ambiguity for online businesses. All persons or businesses engaged in selling intoxicating liquor are required to possess a licence but, with the Law predating the invention of the internet, no provision is made for online businesses.

Such businesses therefore operate via an off-licence under the current model, which creates a number of challenges:

- As with all licences, the law requires that the licence holder display their licence on the exterior of their premises, something which appears excessive for small online vendors operating from their own home.
- The restriction on opening times for licensed premises (6am-10pm) creates a clear challenge for websites accepting payment digitally 24/7.

To resolve this it is suggested that, as with on-licences, discretion be left to the Regulatory Authority to attach specific licence conditions according to Government policy. In practice, this may mean removing the restriction on opening hours for an online retailer entirely whilst imposing a requirement that transactions cannot take place physically on the premises and that deliveries be restricted to particular hours.

Intention:

- That the provisions of the off-licence (Sixth Category) provide for discretion to be left to the Regulatory Authority to attach specific licence conditions according to Government policy.

Temporary Licence

Article 89 of the Law allows the holder of an on-licence to apply to the Bailiff for a 'special permit' which acts as an extension to their licence by granting them permission to sell alcohol at special occasions such as race meetings, sporting events, or fêtes. Once granted, the licensee must then present the permit to the Connétable of the parish in which the event is to be held before alcohol can be sold.

In practice, event organisers who do not hold an on-licence and want to sell alcohol rely on the goodwill of an existing licence holder to apply for extensions of their licences.

Alcohol producers, who may possess an off-licence, need to acquire an on-licence or seek permission from an existing on-licence holder in order to sell via a permit. This arrangement can be less than satisfactory as situations may arise whereby the original licence holder has little or no control over alcohol sales for which they are directly responsible.

This responsibility is further complicated by the fact that, at some events, there may be numerous vendors each operating under separate licences. This may lead to attendees becoming drunk or disorderly by frequenting numerous different stalls or sites. This could lead to situations where it is not possible to identify a single irresponsible licence holder and can cause difficulties in policing a public event.

This consultation proposes the introduction of a personal licence scheme for extraordinary special events under which individuals would be granted a licence for the entire event, enabling the sale of alcohol without 'extending' another establishments' licence. This would require the individual licence holder to be on-site at all times during the event and would function in a similar way to the 'designated premises supervisor' role under the *UK Licensing Act 2003* (UKLA)³.

The licence holder would still have to apply to the Regulatory Authority to gain permission to host an event and seek approval from the parish in which it was due to take place. It is anticipated that temporary licences may be sought in advance of permission being granted for an event under the Unlawful Public Entertainments (Jersey) Regulations 2024, with a licence condition applied to the effect that a licence would only be valid if the event's permission were granted. This notwithstanding, the Regulatory Authority would be expected to liaise closely with those responsible for granting permission for public events when granting a temporary licence to sell alcohol.

The licence conditions would define the premises / area of the event and allow for the inclusion of such places where ancillary activities occur (toilets, camp sites etc.) which may form part of the licensed area by virtue of being accessed by people carrying drinks. Individual licence conditions would be applied in the usual way including permitted hours and maximum capacity.

Intention:

- That a new a temporary licence for special events be established with the requirements placed upon a personal licence holder similar to a 'designated premises supervisor' under the UK Licensing Act.

³ UK Licensing Act 2003; Part 3; Section 15

Section B Questions

8. Please give your comments on the proposals in Section B
9. Do you agree that the 6 categories of on-licence should be reduced to 1?
 - o Yes
 - o No
 - o Not sureComments
10. Do you agree with the introduction of a new temporary licence category?
 - a. Yes
 - b. No
 - c. Not sureComments

Section C: Licence conditions

Licence Managers

Article 18 of the Law requires that in all circumstances where a licence is granted to a company (or a licensee dies or becomes incapacitated), the licence shall have no effect unless a licence manager is appointed.

This manager provides a single point of contact for the parish, Licensing Assembly and authorities and it is considered desirable to retain this provision.

This notwithstanding, the current Law requires notice and in some cases, consent be sought from the Parish, Court and the Minister before a manager can be appointed.

This process could be simplified by requiring a licence manager to be registered with the Regulatory Authority (provided the Regulatory Authority is satisfied that the person is a fit and proper person under Article 18(3)). The Regulatory Authority would notify all other interested parties.

The current licensing regime requires all door staff to be accredited via the Door Registration Scheme. This scheme ensures that door staff undertake or possess the following:

- a basic criminal record check
- an Emergency First Aid at Work qualification or equivalent
- hold a Level 2 Award for Working as a Door Supervisor from an approved awarding body.⁴

Consideration could be given to emulating this scheme for Licence Managers. Creating a Licence Manager Registration Scheme could provide definitive criteria for satisfying the 'fit and proper person' provision currently in the Law. This requirement would likely be in the form of guidance from the Regulatory Authority rather than a new statutory provision and could be further updated as practices and needs evolve.

Commented [CD4]: Do we need to include things that are could be considered later?

Intention:

- That licence managers be registered with the Regulatory Authority who in turn shall notify the parish and emergency services.
- That a Licence Manager Registration Scheme be considered, emulating the current Door Registration Scheme

⁴ These are; the Security Industry Authority, British Institute of Innkeeping Awarding Body (BIIAB), Highfield Qualifications, Laser Learning Awards, National Open College Network (NOCN), Pearson, Qualifications Network (QNUK), SFJ Awards

Licence duration

Commented [CD5]: Do you have any comment on the license running indefinitely and the proposed annual fee?

Under Article 10 of the Law, licences must be renewed annually via application to the Treasurer of the States. Applications, and an annual fee, must be submitted between 5 October and 5 November, or between 6 November and 14 December with an additional fee of £200⁵.

This consultation proposes that licences, once granted, should run indefinitely with provisions to allow reconsideration of a licence at the request of interested parties including the Police and Fire and Rescue Service.

This would reduce the administrative burden on both licensees and government.

Intention:

- That once granted, licences should run indefinitely, subject to annual fees, with provisions that allow for the Regulatory Authority to reconsider at any time or to do so at the request of the States of Jersey Police or Jersey Fire and Rescue Service.

Requirement to keep a physical copy of the law on licensed premises

Article 14 of the Law requires a licence holder to ensure a copy of the Licensing (Jersey) Law 1974 with all its amendments be kept on the premises for the benefit of any persons who may require the licence holder to produce it.

The Jersey Law website provides a copy of the Law to any who would wish to reference it and so this provision, and its associated penalty of Level 1 on the standard scale (£200) are considered to be redundant.

Intention:

- That Article 14 be deleted

⁵ Licence holders are further required to provide copies of the Act of the Licensing Assembly whereby the licence was granted and for the Treasurer of the States to post notices (at least 4) in the *Jersey Gazette* in October of each year.

Multiple licensed premises

Although the current Law allows for multiple licences in respect of the same premises it prohibits a licence holder to hold a licence for multiple premises (except for off-licences).

Businesses operating at multiple venues are therefore required to do so under the guise of multiple licence holders (often in the form of separate subsidiary businesses) and to appoint on-site managers who hold the licence permissions in respect of their respective premises.

Changes to management practices and a broader consolidation in the local market have made it more common for managers to oversee multiple locations.

This consultation therefore proposes to amend this provision to allow for an individual or company to possess different licences for more than one set of premises rather than deferring the licence to a more junior member of staff. The Regulatory Authority would still need to be satisfied that the licensee or their appointed licence manager were capable of discharging their functions in respect of each premises separately.

Intention:

- That individuals be permitted to possess different licences for multiple premises simultaneously
- That licence managers be permitted to operate as a licence manager for more than one set of premises simultaneously provided the Regulatory Authority is satisfied that there remains a dedicated single responsible person for each premises.

Absence from Jersey of on-licence holder or manager

Article 19 of the Law concerns the provisions for an on-licence holder to be absent from Jersey for a period of time.

It requires the licensee to seek the approval for the person who will deputise for them:

- For any absence of up to 30 days: both the Connétable of the parish and the Minister (or their delegated officer(s))
For any absence of more than 30 days: both the Royal Court and the Minister (or their delegated officer(s))

Such conditions appear unduly onerous.

This consultation suggests:

- For any absence of up to 30 days: notification (rather than approval) of the Regulatory Authority and the Connétable
- For any absence of more than 30 days: approval of the Regulatory Authority and notification of the Connétable

Provision could also be made for a person to deputise in the event of the licence holder's temporary incapacity, with requirements to provide such information to the Regulatory Authority as they may deem necessary, such as contact information, previous experience etc.

The Regulatory Authority would then be expected to notify the States of Jersey Police and relevant Parish Chef de Police in the event of any changes.

Intention:

- That a licence holder must arrange for their responsibilities to be deputised during a period of absence or incapacity, and should **notify** the Regulatory Authority and Connétable for absences of less than 30 days and **require the consent** of the Regulatory Authority for periods of more than 30 days.

Requirements on residency

Article 4 of the Law states that a licence may only be awarded to an individual who has resided in Jersey throughout the three years preceding their application or, if they have resided in Jersey for less than three years, a written report is obtained from a responsible official in the jurisdiction(s) of their previous three years of residence. Such a report must outline that the individual is a fit and proper person to have charge of licensed premises.

The Law further prescribes that no licence shall be granted to an individual who has not been resident in either the British Commonwealth or a national of a Member State of the European Union for the preceding three years.

This provision is considered unnecessary. Assuming an individual meets all other criteria set out in a licence and is able to furnish the Regulatory Authority with a reference or references indicating that they are a fit and proper person it would seem anachronistic to disqualify them because their previous place of residence was outside the EU or Commonwealth of Nations.

Any such person would still need to be Registered or Licensed under the Control of Housing and Work (Jersey) Law 2012.

Intention:

- That the requirement for those applying for a licence, having lived in Jersey for less than three years, arrive from an EU or Commonwealth country be removed.

Section C Question

11. Please give your comments on the proposals in Section C

Section D: Emergency Services and enforcement

Regulatory powers

Article 9 of the Law provides broad powers related to enforcement with the Attorney General able to refer any matter relating to a licence to the Licensing Assembly and for the Assembly to 'suspend or revoke the licence in relation to which the submission is made or may attach thereto such conditions as may seem desirable'.

The ancient jurisdiction of the Licensing Assembly has, at times, afforded it the necessary flexibility to address specific issues not provided for in the Law⁶. For example, while fines are not explicitly set out in the Law, the Licensing Assembly has exercised its power to issue civil fines in the past, alongside reviewing or revoking licenses granted via Article 9, and to likewise recover costs during litigation.

This would not be considered a satisfactory position for a government-appointed Regulatory Authority, and it would be important in any changes to the Law to explicitly set out the powers within, and the limits of, the Regulatory Authority's jurisdiction. As an initial model for these powers, it is suggested that the powers contained in Part 4 (Enforcement) of the [Gambling \(Jersey\) Law 2012](#) could serve as a useful framework. Key examples are:

Articles 30, 31 and 32 – Notices as to information, documents, equipment and questions

- This provides that the Commission may by notice in writing request that a licensee provides information and documents of a specified description which the Commission reasonably requires for the performance of its functions and to allow for the inspection of premises and equipment. Article 75 of the Licensing Law provides for broad inspection powers by the States of Jersey Police and Fire and Rescue Service and so a clarification that the Regulatory Authority also holds a power to inspect and request documentation is considered helpful. It is considered important that any information received under these powers be restricted in the same way as information provided to the Gambling Commission is under the Gambling Law (Articles 41 and 42). This is set out in more detail in Section E of this consultation.

Article 34 - Offences: false information and failure to supply information

This establishes an offence if a person knowingly or recklessly provides to the Gambling Commission information that is false, or misleading in a material particular. Article 84 of the Licensing Law makes a similar provision but it is suggested that this offence should be clarified in further detail and limited to a maximum penalty, as it is in Article 34 of the Gambling Law.

Article 35 – Directions

⁶ see e.g. [Club \(Dragon\) Limited \[2013\]JRC069 paras 32-33](#)

This allows for the Commission to issue Directions to licensees in certain circumstances, such as if they have reason to believe that a licence condition is not being complied with. This provides a useful mechanism for the regulator to seek to address an issue without suspending or revoking a licence.

Article 36 - Injunctions and remedial orders

- This provides that the Royal Court, upon the application of the Gambling Commission, may issue an injunction to prevent a person from committing or repeating a contravention of a licence condition, direction or operation of illegal gambling.

Article 39 – Civil financial penalties

- As previously noted, the Licensing Law does not currently provide for fines to be issued in the event that an offence has been committed. Whilst this has not proven to be a barrier to the Court enforcing the law it is considered an important competency for a Regulatory Authority to hold. It is therefore suggested that the Regulatory Authority be empowered to issue civil financial penalties, such as those used by the Gambling Commission and Jersey Financial Services Commission. These fines could be based on a percentage of turnover per quarter or imposed at a maximum penalty.

Careful consideration will need to be given as to the appropriate level of fines and whether these fines should be paid into the Consolidated Fund or directly to the Regulatory Authority.

Alongside the above competencies, it is considered that the Regulatory Authority will require an explicit right to recover its costs in the event of successful litigation. This will prevent the costs of litigation being borne by all licence fee payers and enable the Regulatory Authority to pursue litigation where it is in the public interest to do so.

Intention:

- That the Regulatory Authority have the ability to issue directions and civil financial penalties.
- That the Court be empowered to issue an injunction to prevent a person from contravening a licence condition, direction or illegally selling alcohol.
- That the current offence of providing false information be clarified and set at a maximum penalty and that the Regulatory Authority should be able to seek recovery of its costs incurred through successful litigation.

Fire Service

The current Law requires engagement with the Fire and Rescue Service in advance of an application being considered by the Licensing Assembly. Given the nature of operation of on-licence premises (crowded environments with individuals who may have impaired judgement) the consequences of a major incident could be severe. For this reason, the requirements placed upon on-licences are relatively high, and indeed the maximum permitted occupancy for on-licensed premises is a function of fire safety considerations.

This notwithstanding, the current Law lacks a mechanism to require on-licences to keep their premises up to the latest fire prevention standard and annual renewals of licences do not require further consideration of the fire safety terms.

Consideration could be given to granting the Fire and Rescue service powers to issue an 'improvement notice' if they have reason to believe an establishment is presenting a significant health and safety risk to the general public.

Failure to comply with such a notice could then trigger an automatic review of the licence by the Regulatory Authority. To this end, the Fire and Rescue service should be required to notify the Regulatory Authority of any improvement notice.

Ideally, notification would be provided well in advance of any such notice being issued to allow for corrective action to be taken through dialogue with the licensee or via a Direction issued by the Regulatory Authority, but it is appreciated that this will not always be possible in urgent cases.

Intention:

- That additional powers be given to the Fire and Rescue Service to issue 'improvement notices' if they believe a premises to present a significant health and safety risk to the general public.
- That the Fire and Rescue Service be required to notify the Regulatory Authority of any such improvement notice.

Police powers of closure

Currently the police maintain public order in respect of licensed premises primarily through general public order legislation rather than through the Licensing Law itself.

This position contrasts with the UK where the 2003 Licensing Act empowers police officers to deal specifically with anti-social behaviour and potential public disorder resulting from the operation of licensed premises.

Commented [CD6]: Do you agree that Fire Services should have the power to enforce improvement on premises in the interests of health and safety, and the Police have power to close a premises in the interests of safety and maintaining peace?

In the UK, these policing powers include the ability to issue a 'closure order' on licensed premises for up to 24 hours on the authority of a Police Inspector (or higher rank) if he or she 'reasonably believes' that disorder is likely to occur, or if noise and disturbance is causing a public nuisance⁷. This can be extended by a UK Magistrates' Court until specified conditions are met.

A Court extension may also trigger a reconsideration of the licence by the relevant UK licensing authority.

Intention:

- That policing powers should include the ability to issue a 'closure order' on licensed premises for up to 48 hours on the authority of a police inspector (or higher rank) who reasonably believes that disorder is likely to occur, there is risk of harm, or if noise and disturbance is causing an unacceptable public nuisance.
- That this closure could be extended by the Magistrate's Court until specified conditions are met. An extension by the Magistrate's Court would also trigger a reconsideration of the premises' licence by the Regulatory Authority.
- That the States of Jersey Police be required to notify the Regulatory Authority of any such closure order.

Right of Parishes, Police and Fire services to request a change in licence conditions

In addition to the above, it is recognised that there will be instances where changing circumstances or business practices necessitate an update to licence conditions. Given that, under these proposals, licences are to run indefinitely, such alterations would be up to the discretion of the licence holder and Regulatory Authority.

This notwithstanding, it is recognised that in some circumstances it will be appropriate for the relevant Parish or Emergency Services to make representations to the Regulatory Authority to request an update to licence conditions. This could offer a more informal route to seek improvements rather than requiring a Fire improvement notice or a closure order and a process could be established by the Regulatory Authority to consider these requests in consultation with the licence holder.

This could be incorporated by repurposing Article 9 of the Law which currently allows the Attorney General to refer matters to the Licensing Assembly. Expanding the Article to expressly clarify the rights of the States of Jersey Police and Fire and Rescue Service to refer matters to the Regulatory Authority, would not preclude the

⁷ UK Licensing Act 2003 Article 161 (1)
Crime and Policing Act 2016, Part 4, Chapter 3

Regulatory Authority from reviewing a licence upon advice from other interested parties such as the parish's Connétable, Jersey Competition Regulatory Authority, Public Health Directorate, Environmental Health Directorate or the Minister, but it would create a statutory basis for urgent reviews at the request of the Emergency Services or Court.

Intention:

- That Article 9 of the Law be amended to provide for the States of Jersey Police and States of Jersey Fire and Rescue Service to formally refer matters to the Regulatory Authority.
- That the Regulatory Authority further provide a non-statutory process for the Minister, relevant parish, States of Jersey Fire and Rescue Service, States of Jersey Police, Environmental Health, Public Health and Regulation directorates to provide suggested updates to licence conditions and for such amendments to be considered with the licence holder in a transparent manner.

Exclusion Orders

The Licensed Premises (Exclusion of certain persons) (Jersey) Law 1998 allows the Court to prescribe specified premises from which individuals may be excluded based on either of the below definitions:

- a) *any licensed premises which the court may specify by name and address in the order; and*
- b) *all licensed premises in respect of which there is a licence of any category which the court may specify in the order.*

Under the proposed consequential amendment to this law (following the move to a single category of licence in the Licensing Law) the above option (b) would effectively become an all or nothing route. For example, an individual banned from what are currently Category 7 establishments (e.g. nightclubs) would also find themselves banned from all pubs and any restaurant that possess an on-licence as well.

Whilst such an all-encompassing ban may be required in some very rare situations, it's more likely that the Court would instead choose to always go down option (a) and exclude individuals from specific licenced premises (e.g. all establishments operating as night clubs or perhaps establishments in a specific geographic vicinity). It is understood that there are currently a handful of individuals on the exclusion list and so each of these exclusionary orders will need to be reviewed as part of the transition process.

Intention:

- That individuals currently on the exclusion list have their respective Exclusion Orders reviewed during the transition period to ensure the terms of their exclusion remain appropriate and proportional.

Compliance with Police and Fire Services

Following consultation with the States of Jersey Police, it is suggested that explicit reference is made, within Part 2 of the Law (General Provisions relating to grant of licences) that licencees are expected at all times to cooperate with the States of Jersey Police, Jersey Fire and Rescue Service, and provide such information as they may require (along with the Regulatory Authority).

Commented [CD7]: Or we could have much broader questions such as 1) do you think modernisation of the licensing law is necessary? 2)do you agree with the proposed changes? 3)do you have any comments on the proposed changes? 4)which changes do you think will affect you most? 5) how do you think the proposed changes will affect the general public / businesses / public health?

Intention:

- That licensees be required to cooperate with the States of Jersey Police and Fire and Rescue Service and provide such information as they may require.
- This provision could be a feature within individual licence conditions.

Section D Questions

12. Please give your comments on the proposals in Section D

Section E: Miscellaneous

Control of drinks promotions and minimum pricing

Since 1987, there has been a moratorium on drinks promotions within licensed premises.

While drinks promotions are not addressed explicitly in the Law, the requirement for licences to be granted only to 'fit and proper persons' has provided the basis for the Licensing Assembly guidance. It is based on a 1987 judgment in a case brought by the Attorney General in relation to 'marketing practices which might constitute an inducement to consume alcohol to excess'.

The judgment stated: *"In our opinion licensees who use blatant schemes of this kind are not fit and proper persons to hold a licence and these marketing practices are contrary to the public interest, but we accept that they are a small minority of the total number and we stop short of imposing a general condition on all. However, in any case where from this day on any licensee does persist in the practice, we ask that the licensee individually be referred to us and in such an event the Assembly would give serious consideration to the removal of the licence altogether as an alternative to imposing a condition."*

This guidance has been upheld by successive Licensing Assemblies and clarified through guidance issued from time to time by the Attorney General. The most recent guidance, published in December 2019, explicitly states that the Attorney General *"will have no hesitation in referring a licensee to the Licensing Assembly if presented with evidence that a licensee has or is pursuing advertising practices or drinks promotions which are intended to or may have the effect of encouraging consumers to increase their consumption of alcohol"*⁸.

The moratorium does not apply to off-licences because, in part, many operate within general retailers and there would be the potential for unintended consequences on store-wide discounts and food promotions if alcohol promotions were restricted.

If, as is proposed, the Licensing Assembly is replaced by a Regulatory Authority then the mechanism for controlling policy relating to drinks promotions and minimum pricing would move to the Minister.

This consultation proposes that the Alcohol Policy Ministerial Group, of which the Minister is Chair and the Attorney General is a member, would commission an Alcohol Licensing Policy to include guidance on drinks promotions, advertising and minimum pricing. The policy would inform the work of the Regulatory Authority.

⁸ [ID Attorney General's Statement Drinks Promotions 20130328 JB.pdf \(gov.je\)](#)

Intention:

- That the responsibility for issuing guidance should be at the discretion of the Minister who may wish to commission a review of drinks promotions, advertising and minimum pricing concurrently to the drafting of these amendments to allow for guidance in the form of an Alcohol Licensing Policy to be published ahead of an Appointed Day Order. This guidance would then inform the work of the Regulatory Authority.

Establishment of a central register

Although not part of the legislative changes, it is considered beneficial for a centralised registry of licenced premises to be established. This would be held centrally by the Regulatory Authority and accessible by both the States of Jersey Police (SOJP) and Jersey Fire and Rescue Service.

The Registry should be interoperable with the SOJP's ViewPoint system and automatically update across both platforms. Such a system is already in place elsewhere in Government, such as in DVS, and has been noted by the Police as significantly improving the efficiency of monitoring and enforcement.

The Regulatory Authority may wish to consider publishing a simplified version of the registry of licenced premises and their locations although such a list should omit the personal details required on the Registry. The Gambling Commission is preparing to undertake a similar project to update its register of gambling premises and so there could be an opportunity to combine both projects.

Intention:

- That a central registry be established by the Regulatory Authority which should be accessible by the Police and Fire services and interoperable with their current systems.

Display of pricing

Under the Law, licenced premises are required to post in a conspicuous position at each public entrance a list of charges for each type of liquor sold on the premises.

The intention behind this condition has clearly been to protect customers by deterring licenced premises from charging different rates for different patrons. This has largely been superseded by the [Consumer Protection \(Unfair Practices\) \(Jersey\) Law 2018](#). The clear intention behind this licence condition is to protect customers from a licenced premises charging different rates for different patrons however it has largely been superseded by the [Consumer Protection \(Unfair Practices\) \(Jersey\) Law 2018](#).

Furthermore, online review sites, and the presence of consumer interest groups such as the Jersey Consumer Council, provide further safeguards against unfair trading practices. Most licenced premises also typically publish a menu online, and many will provide menus to guests upon arrival.

This requirement is therefore considered to be superfluous and the requirement to physically display multiple price lists increases the costs to a business each time any pricing is amended, and they have to reprint their price list as a consequence. Such costs can lead to 'price stickiness', where the benefits of changing pricing to better reflect current market conditions are outweighed by the practical costs associated with updating prices. It is therefore considered that this requirement could be removed.

Intention:

- That the requirement to display a list of prices at each public entrance to a licenced premises be removed.

Restrictions on registered premises

Jersey visitor accommodation is regulated via the [Tourism \(Jersey\) Law 1948](#) and the [Tourism \(General Provisions\) Jersey Order 1990](#) which requires accommodation to be registered, and meet prescribed conditions. Visitor accommodation is therefore referred to as registered premises.

Many registered premises serve alcohol, and indeed, a Second Category (Residential) Licence can only be issued to a registered premises. Conditions also

apply in respect of other licence categories and, in particular, require any registered premises to provide a seating area separated from the bar for guests⁹.

Given changes in drinking culture and that, since 2007, smoking inside has been banned, it is no longer considered necessary to require two separate seating areas on registered premises for 'drinkers' and 'non-drinkers'.

Intention:

- That the requirement for registered premises to provide both a separate seating area, in addition to a bar-lounge, for guests be removed

Fees

A breakdown of the current fee structure can be found in Annex 1 (page 37).

In 2023, licence fees generated £200,000¹⁰ to Government. It is proposed that, in future years, these fees would be assigned to the Regulatory Authority to support the costs of the licensing regime. The intention is for the fees to cover the authority's running costs.

At this stage it is not possible to anticipate the total cost of the licensing regime but it is feasible that fees (which have remained the same since 2007) would rise to support increased costs.

Under the current multiple category system, many on-licence premises hold more than one type of category concurrently: more than 700 current licences are held by approximately 550 on- and off-licensed premises.

Under the proposed single category for on-licences, the total number of licences would decrease, as would licence fee income. It is therefore suggested that a new licence fee be set for on-licences to reflect the move to a single licence category.

Furthermore, the current licence fees fall disproportionately on the on-licence trade which pay significantly more per licence than a single off-licence. This contrasts with the available evidence from other jurisdictions which indicate that off-licence trade represents a significant majority in total alcohol consumption.

⁹ Licensing (Jersey) Law 1974 – Article 24 Restriction on grant of licence:

A licence shall not be granted in respect of any registered premises which do not provide a sitting-room of adequate size, other than a bar-lounge, for the exclusive use of persons accommodated for reward on the premises.

¹⁰ Of this £26,904 was generated from off-licences

It is therefore suggested that fees for off-licences increase to reflect their influence on alcohol consumption and to support the resourcing of the Regulatory Authority.

A breakdown of the current fee structure can be found in Annex 1. Fees are currently set by Regulation via the Assembly; consideration could be given to setting the fees via Ministerial Order to reduce the administrative requirements.

Intention:

- That fees be set via Ministerial Order
- That fees meet the costs associated with licensing

Restricted Information

As part of the application process, and in the course of their undertakings as a regulated business, licensees will be asked to provide information to the Regulatory Authority.

The current system for example, requires applicants to provide information relating to:

- business plans
- floor plans, including any al fresco areas
- personal information¹¹

The Regulatory Authority's power to request such information as it might deem relevant to its duties, as set out in Section D of this consultation, carries a responsibility that this information be treated sensitively and proportionately.

Under the Gambling (Jersey) Law 2012, this is ensured through:

- Article 41 (Restricted information) and
- Article 42 (permitted disclosures) which clearly sets out the care with which 'persons who receive information relating to the business or other affairs of any person' must treat this information, and outlines that the Gambling Commission is permitted to disclose relevant information to specific bodies such as the Viscount, Court, Attorney General or police, amongst others.

It is considered useful to mirror these provisions within the revised Licensing Law albeit to expand them to include the Fire and Rescue Service, States Of Jersey Police, Public Health directorate and parishes for relevant information.

¹¹ Such information is treated in accordance with the Data Protection (Jersey) Law 2018

Intention:

- That provisions relating to Restricted Information and Permitted Disclosures be included in the amended Law, with an expanded list of exemptions to include the Fire and Rescue Service, States Of Jersey Police, Public Health directorate and parishes.

Transitional provisions

With licences renewed annually under the current regime, there is a natural window to move licensees onto a revised category system within a relatively short period.

Over the course of a calendar year, licensees would be given the opportunity to transfer the licence(s) to the revised category system at no cost, and on the same terms. Should licensees wish to take the opportunity to revise the terms of their licence this could also be accommodated during the transition period. Licensees who had not moved their licence to the new system would naturally have their licences lapse.

It should be noted that the Regulatory Authority will likely require an initial grant to build capacity ahead of taking onboard the responsibilities set out in the amended Law.

As an existing regulator, the Gambling Commission would represent a more cost-effective option than establishing a completely new Regulatory Authority (along with the Commission's existing expertise and joint working with key stakeholders) but would nevertheless require some form of seed funding.

Intention:

- That a commencement date in January be selected (likely confirmed by Order) with licensees provided the opportunity to move their licences onto the revised category system under their existing terms or take the opportunity to seek a revision to their licence conditions in the usual way.

Section E Questions

13. Please give your comments on the proposals in Section E
14. Who do you think should decide on drinks promotions and minimum pricing?
15. Please give any other comments on the Licensing (Jersey) Law 1974.

Annex 1: Current fee structure

Licence type	Fee
Taverner's	£434 plus £1.07 multiplied by the maximum number of persons allowed on your premises at any one time
Residential	£1.07 multiplied by the number of approved residents (£136 minimum fee)
Restaurant	£434
Comprehensive	£1,082 plus £2.15 multiplied by the number of approved residents
Club licence	£324
Off-licence	£114
Entertainment (a) (cinemas and theatres)	£434
Entertainment (b) (places other than cinemas and theatres)	£1.07 multiplied by the number of persons mentioned on the permit in respect of the premises (£434) minimum fee)

Annex 2: Summary of questions

Are you responding

- As a business
- As an organisation
- As an individual?

Section A: The approval and amendment of licences

1. Do you agree that the Licensing Law should be updated?
 - Yes
 - No
 - Not surePlease comment
2. Please give your comments on the proposals in Section A
3. Do you agree that the licensing process should be run by a Regulatory Authority?
 - Yes
 - No
 - Not surePlease comment
4. Do you agree that the Gambling Commission should be appointed as the Regulatory Authority?
 - Yes
 - No
 - Not surePlease comment
5. Should the Licensing Assembly be reconstituted as the court of appeal for licensing matters?
 - a. Yes
 - b. No
 - c. Not surePlease comment
6. Do you agree that parishes should continue to give their views as part of the licensing process?
 - a. Yes
 - b. No
 - c. Not surePlease comment
7. Should the Licensing Assembly be reconstituted as the court of appeal for licensing matters?
 - a. Yes
 - b. No
 - c. Not surePlease comment

8. Do you agree that Connétables should have the ability to provide parish views on licence applications without having to call a Parish Assembly?
- a. Yes
 - b. No
 - c. Not sure
- Please comment

Section B: Simplification of licence categories

9. Please give your comments on the proposals in Section B
10. Do you agree that the 6 categories of on-licence should be reduced to 1?
- a. Yes
 - b. No
 - c. Not sure
- Comments
11. Do you agree with the introduction of a new temporary licence category?
- a. Yes
 - b. No
 - c. Not sure
- Comments

Section C: Licence conditions

12. Please give your comments on the proposals in Section C

Section D: Emergency Services and enforcement

13. Please give your comments on the proposals in Section D

Section E: Miscellaneous

14. Please give your comments on the proposals in Section E
15. Who do you think should decide on drinks promotions and minimum pricing?
16. Is there anything else you would like to see addressed by the changes to the Licensing (Jersey) Law 1974? Please leave any comments or suggestions below

Additional questions

17. Have you ever been a licence manager?
- If you have, which categories did you manage?
- a. first category, "the Taverner's Licence"
 - b. second category, "the Residential Licence"
 - c. third category, "the Restaurant Licence"
 - d. fourth category, "the Comprehensive Licence"
 - e. fifth category, "the Club Licence"
 - f. sixth category, "the Off-Licence"
 - g. seventh category, "the Entertainment Licence".
18. Please describe your experiences of the licensing process and any changes that you would hope to see