



"Who stopped the party....and why?!"

A recent study by an independent research group in Britain declared that Jamaicans are the "third happiest people in the world." This statement is not so hard to believe when one looks at the typical Jamaican's love of music and entertainment. We are in fact now in the middle of the festive season and without a doubt we can expect to see the usual staging of live music events, Christmas parties, house parties and other similar festivities. Many may however forget or may not know that the law actually sets parameters on how we go about entertaining or being entertained and often go ahead to have parties and stage events without any regard to the following legal requirements:

1. Licences for operating places of amusement

By virtue of the Kingston and St. Andrew Corporation (Places of Amusement) Regulations and the Regulations of the twelve other Parish Councils ("the Regulations"), anyone who wishes to operate a place of amusement is required to obtain a licence from their respective Parish Council and in the case of the parishes of Kingston and St. Andrew, the K.S.A.C.

The Regulations define places of amusement as any place which is open to the public, whether for a fee or free of charge, for the purpose of entertainment, including a cinema, dance-hall, club, open air dance venue, amusement arcade and discotheque. Accordingly, those who wish to host parties, stage live music events and the like, will require a licence as those events fall under the definition of 'places of amusement'.

Anyone who requires a licence to operate a place of amusement must apply to their Parish Council, pay the requisite fees and submit with their application, proof of insurance (from a reputable insurance company) in respect of public liability, fire and other perils. In addition, where the place of amusement is in fact a building, the application should also be accompanied by a certificate from that parish's Fire Commissioner which confirms that satisfactory fire precautions are in place.

Further, the applicant must, among other things, ensure that buildings are safely constructed with sufficient ventilation, free access to passages, aisles and exits and that adequate security measures are in place to ensure that patrons do not possess offensive weapons.

Anyone who contravenes the Regulations is liable, on summary conviction before a Resident Magistrate, to a fine not exceeding ten thousand dollars and, in default of payment of that fine, to imprisonment for a term not exceeding three months.

2. Compliance with the Noise Abatement Act

The Noise Abatement Act ("the Act") provides that "no person shall, on any private premises or in any public place at any time of day or night (a) sing, or sound or play upon any musical or noisy instrument; or (b) operate, or permit or cause to be operated, any loudspeaker, microphone or any other device for the amplification of sound – in such a manner that the sound is audible beyond a distance of one hundred metres from the source of such sound and is reasonably capable of causing annoyance to persons in the vicinity".

The law presumes that the sound will cause an annoyance if it is being operated within the vicinity of a dwelling house, hospital, nursing home, hotel or guest house if it is audible after 2 a.m. and before 6 a.m. on a Saturday or Sunday or after 12 midnight to 6 a.m. from Sunday to Thursday. The police are therefore entitled to put an end to festivities that go on after these hours.

In addition to having the music turned off, anyone who contravenes the Act shall be found guilty of violating the public peace and shall be liable on summary conviction in the case of a first offence, to a fine not exceeding \$15,000, or in default of payment, to imprisonment for a term not exceeding 3 months. In the case of a third offence, an offender may be fined up to \$50,000, and in default of payment, to imprisonment for a term up to twelve months.

In addition the Court may order the forfeiture of the equipment used in the commission of the offence.

3. Compliance with the Spirit Licence Act

The Spirit Licence Act prohibits the sale – whether wholesale or retail - of any liquid containing alcohol, including rum, brandy, whisky, all liqueurs and other mixtures intended for drinking and prepared from and mixed with spirits without a licence. Under the Act, one of several licences may be obtained including, a town retail licence, tavern licence, hotel licence, club licence and an occasional special licence.

An application for a licence under this Act is done to the Licensing Authority for the respective parish. The Licensing Authority is made up of not less than five or more than seven Justices of the Peace. For the purposes of dealing with applications for licences the Licensing Authority of each parish holds a number of sessions held at several Resident Magistrate's courts for each parish. An applicant must submit their application to the Licensing Authority not less than twenty-one days before the Licensing Authority is scheduled to sit to hear applications. Applicants must also submit a copy of their application to the Superintendent of Police.

Failure to obtain a spirit licence may result in the seizure and detention of any spirits exposed for sale.

Compliance with the law may seem onerous, but complying may just keep the party going a little longer.

Corrine Henry is an associate at Myers, Fletcher and Gordon and a member of the firm's Property Department. Corrine may be contacted at corrine.henry@mfg.com.jm or through the firm's website at www.myersfletcher.com.