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## Felicia Bailey | The Business Of Ganja: How To Get Involved – Pt 2

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Felicia Bailey

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Having looked at the agencies involved in administering the 2015 amendments to the

Dangerous Drugs Act (DDA) and how persons can access and use ganja legally in my last column, we can now delve into how to access business opportunities in the regulated cannabis industry.

### **MYTH: THE GANJA INDUSTRY IS FOR THE ‘BIG MAN’ AND FOREIGN COMPANIES**

As for the business aspect of the industry, it is the thought of many that the industry is reserved for the ‘big man’ and foreigners. As it is now, the industry has players from all walks of life. It is worth noting that the Government of Jamaica, in crafting the interim regulations, made it a requirement that any individual wishing to be a part of the industry must be ordinarily resident in Jamaica. Likewise, companies operating in the industry must be registered with the Companies Office of Jamaica and demonstrate substantial ownership and control (51 per cent) by persons ordinarily resident in Jamaica. Therefore, the preservation of local interests in the industry has been embedded in the legislative framework.

### **MYTH: YOU NEED A LAWYER OR CONSULTANT TO APPLY FOR A LICENCE**

It is not a requirement that applicants must go through a consultant or lawyer to obtain a licence for handling ganja, nor is it necessary. Engaging the services of a consultant or a lawyer does not give an applicant an advantage in the processing of their application as opposed to an applicant who applies directly to the Cannabis Licensing Authority (CLA).

Additionally, the CLA does not charge for providing guidance throughout the application process. Our client facilitation officers are always ready and willing to provide assistance to all applicants and potential applicants. Further, it is advised that it is better for persons to contact the CLA directly so that they will always have accurate and up-to-date information.

### **HOW DO I BECOME A LICENSEE?**

If an individual or a company is interested in becoming a licensee, the first step is to submit an application form. These forms are available on the CLA’s official website ([cla.org.jm](http://cla.org.jm)) or a hard copy can be collected at our offices.

It is important that the form is completed accurately, as failure to do so may result in delays in the application process.

The CLA does not collect fees from an applicant until it has verified that the application is properly completed and the requested supporting documentation are provided. Having accepted an application, the CLA then proceeds to do due diligence checks, locally and internationally, to determine if the individual or company’s directors and shareholders are considered ‘fit and proper’ to operate in the industry. The fit-and-proper assessment looks at factors such as whether a person is of good repute, inclusive of their character, honesty, as well as their personal and professional integrity, the skills and experience of the applicant, their financial circumstances and history of compliance with the DDA.

### **WHAT CAN PREVENT SOMEONE FROM BECOMING A LICENSEE?**

Persons who have been convicted of certain offences under the Treason Felony Act, Malicious Injuries to Property Act, Larceny Act, Firearms Act, Offences Against the Person Act, the Dangerous Drugs Act, Trafficking in Persons Act, Childcare and Protection Act, Law Reform

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Act, Terrorism Prevention Act and Child Pornography (Prevention) Act are ineligible.

Persons are also disqualified if they have been convicted of murder, treason, any offence under the Criminal Justice (Suppression of Criminal Organisations) Act and offences under Sections 93 and 92 of the Proceeds of Crime Act.

As it relates to compliance with the DDA, persons convicted of some offences become eligible after 10 years have passed since serving the sentence or having paid the fine for the offence. Persons that have had their records expunged for offences committed under the DDA before the 2015 amendments are also eligible. Persons convicted of any other offence not previously mentioned may become eligible after five years have elapsed since serving the sentence or paying the fine associated with the offence.

### **THE GANJA INDUSTRY IS NOT ONLY ABOUT CULTIVATION**

Through its powers, the authority has issued licences for the handling of ganja to 63 companies and individuals. Five types of licences are issued by the CLA, which are further broken down into categories: cultivator (tier 1, 2 and 3), processing (tier 1 and 2), transport, retail (with facilities for consumption, without facilities for consumption and therapeutic) and research and development (experimental and analytical services).

Important to note is that you do not need to have all five licence types to be a part of the industry; however, you are not restricted from holding two or more.

### **HOW LONG DOES IT TAKE TO GET A LICENCE?**

For simplicity, the licensing process can be divided into two parts: conditional approval, and granting and issuance of the licence.

After verifying that the application is accurately completed and accompanied by all the relevant documentation, the CLA has a benchmark of six months to process the application. Having made changes in the application process to improve efficiencies, the authority has for the last few months been able to process some applications in as little as three months to take them to the conditional approval stage. This is among the shortest, if not the shortest, processing time for the industry worldwide. This period is used to carry out due diligence checks on the individuals entering the industry to ensure that they are fit and proper.

After an applicant has reached the conditional approval stage, the rest of the process is in the hands of the applicant to get to the granting and issuance of licence stage, as the authority would have discharged its duties with respect to the processing of the application.

Once conditionally approved, the applicant now needs to satisfy other requirements. Pre-licensing inspections are conducted by the CLA before the granting of the licence to ensure that the site or vehicle to be used for carrying out the activities under the licence is 'fit for purpose'. Once this stage is completed, the applicant will be required to pay the respective licensing fee and security bond (where necessary) in order for the licence to be issued.

Therefore, the timeframe to move from the conditional approval stage to the granting and issuance of licence stage is dependent on how soon an applicant can satisfy the relevant conditions.

## FEES

Fees can be paid in Jamaican or US dollars. The CLA's fees for applications, licences and security bonds can be found on its official website. The application fee is US\$300 for individuals and US\$500 for companies, businesses and co-operatives. The licence fees and security bond start at US\$2,000 and US\$1,000, respectively. Licence fees are calculated based on the licence type and the tier or size of the facility that the applicant has decided to license.

These fees are stipulated by law and any changes to the fees would require a lengthy legislative amendment process. Consequently, fees are quoted in US dollars to mitigate the effects of inflation and prevents the need for frequent legislative amendments.

## WAIVERS, DEFERMENT AND PAYMENT PLANS

The provisions of the regulations also permit the CLA, with the prior approval of the minister, after consulting with the minister responsible for finance, to waive, defer or permit a payment plan for persons or companies who have a difficulty paying the licence fee or security bond. This allows for greater inclusivity and increased opportunities for all cross sections of the population to enter into the industry without the full payment of these fees.

## GANJA CAN BE EXPORTED FROM JAMAICA

Currently, the Government of Jamaica is in the process of promulgating the Dangerous Drugs (Cannabis Import and Export Licensing) Regulations. Nevertheless, while the CLA awaits the promulgation of these regulations, it has put in place interim measures to facilitate both the import and export of cannabis (to include ganja) by its licensees. These protocols, the 'Interim Measures – Importation of Cannabis' and the 'Interim Measures - Export of Cannabis', can be found on the CLA's website.

Licensees wishing to export cannabis must present, to the CLA, a valid import permit from the importing country. This country must have a similar regime to Jamaica, i.e., must be for medical, scientific and therapeutic purposes, as well as must be a signatory to the UN's International Drug Control Conventions. The interim measures will cease to exist upon promulgation of the import/export regulations.

It would be virtually impossible to explain all the inner workings of the local cannabis industry in this forum. However, I hope this clarifies some common misconceptions about the industry. For any further information, feel free to check our website ( [cla.org.jm](http://cla.org.jm)) or reach out to the CLA by telephone at (876)654-7582, or by email at [info@cla.org.jm](mailto:info@cla.org.jm).

Felicia Bailey is the director of research development and communications at the Cannabis Licensing Authority. Send feedback to [media@cla.org.jm](mailto:media@cla.org.jm).

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