

LIMPOPO PROVINCE
LIMPOPO PROVINSIE
XIFUNDZANKULU XA LIMPOPO
PROFENSE YA LIMPOPO
VUNDU LA LIMPOPO
IPHROVINSI YELIMPOPO

**Provincial Gazette • Provinsiale Koerant • Gazete ya Xifundzankulu
Kuranta ya Profense • Gazethe ya Vundu**

(Registered as a newspaper) • (As 'n nuusblad geregistreer)
(Yi rhijistariwile tanihi Nyuziphepha)
(E ngwadisitšwe bjalo ka Kuranta)

POLOKWANE,

30 OCTOBER 2008
30 OKTOBER 2008
30 NHLANGULA 2008
30 OKTOBERE 2008
30 TSHIMEDZI 2008

Vol. 15

Extraordinary

**Ku katsa na Tigazete to
Hlawuleka hinkwato**

No. 1560

Buitengewoon

**Hu tshi katelwa na
Gazethe dza Nyingo**

CONTENTS • INHOUD

<i>No.</i>	<i>Page No.</i>	<i>Gazette No.</i>
GENERAL NOTICE		
363 Limpopo Liquor Act, 2008: For information.....	3	1560

GENERAL NOTICE

NOTICE 363 OF 2008

LIMPOPO PROVINCIAL ADMINISTRATION

DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM

LIMPOPO LIQUOR BILL, 2008

The Memorandum on the Objects of the Limpopo Liquor Bill, 2008 is hereby advertised for information. This Notice is in addition to Notice No. 482 that was published in Provincial Gazette 1407 on 25 October 2007 in conjunction with Gazette No. 1556 that was published on 27 October 2008 wherein the Limpopo Liquor Bill, 2007 was published for comments.

**The Head
Department of Economic Development,
Environment and Tourism
Private Bag X9484
POLOKWANE
0700**

**FOR ATTENTION: Mr Simon Mbedzi
Tel: (015) 291 2747 / 0836275974
mbedziks@ledget.gov.za**

**MEMORANDUM
ON THE OBJECTS OF THE LIMPOPO LIQUOR BILL, 2008**

1. BACKGROUND

1.1 Schedule 5 [Part A] of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), provides that liquor licensing is a functional area of exclusive provincial legislative competence. However, the Constitutional Court determined that circumstances in the liquor industry justify the promulgation of national and provincial legislation. The Liquor Act, 2003 (Act No. 59 of 2003) [hereinafter referred to as "the 2003 National Act"] was brought into operation from 13 August 2004. The 2003 National Act provides for a three tier system of the liquor industry, the manufacturing, distribution and retail of liquor. The 2003 National Act regulates manufacturing and distribution of liquor and the micro-manufacturing of liquor is excluded. The provincial legislatures retain the exclusive competency to regulate the micro-manufacturing and retail tiers of the liquor industry.

1.2 The 2003 National Act and the Liquor Act, 1989 (Act No.27 of 1989) [hereinafter referred to as "the 1989 Liquor Act"] operate concurrently in those provinces that have not passed their provincial legislation.

2. SOCIAL IMPACT

2.1 Alcohol abuse has social implications and therefore the Bill aims to regulate the licensing of liquor in the province in a manner which will limit the negative aspects of alcohol abuse. The effect of alcohol abuse is common cause. The Bill makes provision for the participation of local government in the licensing process

and includes a person on the Local Liquor Authority with experience in the field of socio-economic development or social services.

2.2 The liquor industry is also a very lucrative industry which creates job and business opportunities and therefore stimulates economic growth in Limpopo.

3. CLAUSE BY CLAUSE ANALYSIS

- 3.1 Clause 1 provides for definitions.
- 3.2 Clause 2 deals with the objects of the Bill.
- 3.3 Clause 3 limits the application of the Bill.
- 3.4 Clause 4 provides for the establishment of the Local Liquor Authority.
- 3.5 Clause 5 provides for the composition of the Local Liquor Authority.
- 3.6 Clause 6 provides for the appointment of members to the Local Liquor Authority.
- 3.7 Clause 7 provides for the functions of the Local Liquor Authority.
- 3.8 Clause 8 provides for the establishment of the Limpopo Liquor Board.
- 3.9 Clause 9 provides for the composition of the Board.
- 3.10 Clause 10 provides for the appointment of members of the Board.
- 3.11 Clause 11 provides for the functions and powers of the Board.
- 3.12 Clause 12 deals establishes an Appeal Tribunal for appeals against decisions of the Board.
- 3.13 Clause 13 provides for the eligibility for appointment of members to provincial structures.
- 3.14 Clause 14 provides for the term of office of members of the provincial structures.
- 3.15 Clause 15 provides for the allowances and remuneration of members.
- 3.16 Clause 16 deals with the conduct at meetings of provincial structures.
- 3.17 Clause 17 provides for disqualification of members.
- 3.18 Clause 18 provides for the funds of all the provincial structures.

- 3.19 Clause 19 provides for subpoenas and notices.
- 3.20 Clause 20 provides for the establishment of a Provincial Liquor Policy Council.
- 3.21 Clause 21 provides for the composition of Council
- 3.22 Clause 22 provides for the functions of the Council.
- 3.23 Clause 23 makes liquor licencing mandatory.
- 3.24 Clause 24 provides for Traditional African Beer.
- 3.25 Clause 25 provides for the categories of liquor licences.
- 3.26 Clause 26 provides for a special event permit.
- 3.27 Clause 27 provides for the disqualification of applicants for liquor licences.
- 3.28 Clause 28 provides for the application procedure for a liquor licence.
- 3.29 Clause 29 makes provision for consultants and prescribes the requirements of consultants.
- 3.30 Clause 30 deals with the death or incapacity of an applicant.
- 3.31 Clause 31 provides for a right to an appeal against a refusal of a liquor licence.
- 3.32 Clause 32 deals with the procedure during a hearing of an appeal.
- 3.33 Clause 33 provides for issuing of a licence certificate.
- 3.34 Clause 34 provides for the effects of licensing.
- 3.35 Clause 35 deals with the non-compliance of licence obligations.
- 3.36 Clause 36 deals with the variation, suspension or cancellation of a licence.
- 3.37 Clause 37 deals with the right of a licence holder to appeal against an amendment, suspension or cancellation of a licence.
- 3.38 Clause 38 provides for the voluntary deregistration, winding up or dissolution of a licence holder.
- 3.39 Clause 39 provides for the death or incapacity of certain licence holders.
- 3.40 Clause 40 provides for when there is a change in the controlling interest of a business of the licence holder.

- 3.41 Clause 41 deals with the change or extension of the core business of a licence holder.
- 3.42 Clause 42 provides for the transfer of a licence.
- 3.43 Clause 43 deals with relocation of licenced premises.
- 3.44 Clause 44 provides for a register.
- 3.45 Clause 45 provides for the payment into the revenue fund of all prescribed fees received by the Board.
- 3.46 Clause 46 provides for the sale of liquor.
- 3.47 Clause 47 provides for the prohibition on the sale of liquor under certain circumstances.
- 3.48 Clause 48 provides for management of the business of a licence holder.
- 3.49 Clause 49 provides for alteration of premises.
- 3.50 Clause 50 provides for the trading times of liquor.
- 3.51 Clause 51 provides for certain limitations on employers.
- 3.52 Clause 52 provides for health notices.
- 3.53 Clause 53 provides for on the sale of unhealthy concoctions.
- 3.54 Clause 54 provides for the regulation of methylated spirits.
- 3.55 Clause 55 provides for the designation of liquor inspectors.
- 3.56 Clause 56 provides for the powers and duties of liquor inspectors.
- 3.57 Clause 57 provides for the duty to assist a liquor inspector.
- 3.58 Clause 58 deals with a non-compliance notice issued by a liquor inspector.
- 3.59 Clause 59 provides for the closing of the premises of a licence holder under certain circumstances.
- 3.60 Clause 60 provides for the reports of liquor inspectors.
- 3.61 Clause 61 provides for general offences.
- 3.62 Clause 62 provides for offences regarding information.

- 3.63 Clause 63 provides for offences relating to the Board.
- 3.64 Clause 64 provides for offences regarding liquor inspectors.
- 3.65 Clause 65 provides for service of notices and documents.
- 3.66 Clause 66 provides for review by the High Court.
- 3.67 Clause 67 provides for proof of certain facts by affidavit.
- 3.68 Clause 68 provides for procedural requirements for proof by affidavit.
- 3.69 Clause 69 provides that the MEC may make regulations regarding certain matters.
- 3.70 Clause 70 provides for limitation of liability.
- 3.71 Clause 71 provides for transitional arrangements.
- 3.72 Clause 72 provides for the short title and commencement.

4. **ORGANISATIONAL IMPLICATIONS**

The Bill provides for the establishment of —

- (a) Local Liquor Authorities at municipalities which will require adequate staff and resources to ensure the successful administration of liquor and Traditional African Beer licences;
- (b) Limpopo Liquor Board is a juristic person with members appointed from public and private sector; and
- (c) an Appeal Tribunal which will consist of three members of which the Chairperson will be an attorney or advocate.

5. FINANCIAL IMPLICATIONS

5.1 The organisational structure provided for in the Bill will have financial implications. There is budget for the implementation of the Limpopo Liquor Act in 2009/10 financial year.

5.2 The Bill makes provision for application, licensing and renewal fees which will be paid into the Provincial Revenue Fund.

6. INSTITUTIONS CONSULTED

6.1 The following institutions were consulted:

- (a) Limpopo Liquor Traders Association;
- (b) Provincial departments;
- (c) National Department of Trade and Industry; and
- (d) Legal Services in the Office of the Premier.

6.2 The comments received from public hearings held for the 2003 National Act were incorporated in the Bill.

7. RECOMMENDATION

It is recommended that this Bill be approved.

MR COLLINS CHABANE
MEMBER OF THE EXECUTIVE COUNCIL
DEPARTMENT OF ECONOMIC DEVELOPMENT,
ENVIRONMENT AND TOURISM