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**CONTENTS • INHOUD**

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
<b>GENERAL NOTICE</b>			
33	Department of Economic Development, Environment, Conservation and Tourism: North West Liquor Policy: White Paper .....	2	7217

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**GENERAL NOTICE**

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**NOTICE 33 OF 2014****NORTH WEST PROVINCE**

Department of Economic Development, Environment, Conservation and Tourism (North West)

North West Liquor Policy

I Motlalepula Rosho, Member of the Executive Council for the Department of Economic Development, Environment, Conservation and Tourism hereby give notice for the publication of the North West Liquor Policy.

Members of the public are invited to submit to the MEC, within 30 days after the publication of the Notice in the Gazette, written representations on the Liquor Policy to the following address.

By post to       The Head of the Department  
                    Economic Development, Environment, Conservation and Tourism  
                    Attention: Mr. Moeketsi Senqhi  
                    Private Bag X 15  
                    Mahikeng  
                    2735

Hand Delivered: NWDC Building  
                    Corner University Drive and Provident Street  
                    2<sup>nd</sup> Floor  
                    Mmabatho

Fax No: (018) 384 9440 / 086 571 4424

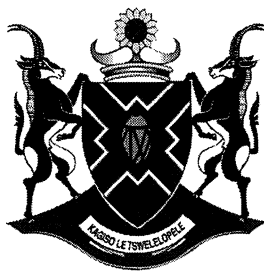
Email Address: msenqhi@nwpg.gov.za

Any enquiries in connection with the Liquor Policy can be directed to Mr. Senqhi at (018) 387 7928/9.

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Motlalepula Rosho

MEC for Department of Economic Development, Environment, Conservation and Tourism



**DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENT,  
CONSERVATION AND TOURISM**

**WHITE PAPER**

(Approved by the North West Executive Council through Resolution No 6.4.1. passed on the  
2<sup>nd</sup> October 2013.)

**NORTH WEST PROVINCIAL LIQUOR POLICY**

NWDC Building  
Cnr. University Drive & Provident Street  
Private Bag X15,  
Mmabatho, 2735

## **1. Introduction**

- 1.1 According to Schedule 5 Part A of the Constitution of the Republic of South Africa, 1996, Liquor Licensing is a legislative competence of provinces. Notwithstanding, the North West Government is a member of the National Liquor Policy Council established under the National Liquor Act, 2003 whose objectives are to:
- a) Ensure that liquor legislation and practices in the Republic are harmonized,
  - b) Facilitate effective enforcement of liquor laws by various enforcement authorities;
  - c) Provide consistency in the application of liquor laws throughout the Republic; and
  - d) Reduce socio-economic and other costs of alcohol abuse by reducing access to and the availability of liquor.
- 1.2 Policies and Acts are required to control and administer the sale and distribution of liquor and the term 'liquor licence' encompasses not only the grant or refusal of the permission concerned, but also the power to impose conditions pertinent to that permission, as well as the collection of revenue that might arise from or be attached to the granting of a licence.
- 1.3 The liquor legislation currently in force within the Province is the Liquor Act 27 of 1989. The administration of this Act was assigned to the provinces in 1994. The National Parliament has repealed this Act in 2003 when the National Liquor Act No 59 of 2003 came into force.
- 1.4 Despite the repeal of the Liquor Act, 1989 by the National Parliament, schedule 1 (2) of the Liquor Act, 2003 states that the Liquor Act, 1989 remains in force within a province until a date determined in accordance with schedule 1 and provided that the legislature of that province has enacted legislation that is consistent with the requirements set out in schedule 1. Considering the delay by provinces in enacting their own liquor legislation, a directive was made by the National Liquor Policy Council for the Provinces to enact their own provincial liquor legislation and align them to the Liquor Act, 2003 by 2014.

- 1.5 This policy therefore forms part of initiatives to address the inadequacies of the past in order to strike the right balance between the benefits consumers have enjoyed from the liberalization of the sale and supply of liquor and the harm associated with the abuse of alcohol.
- 1.6 New legislation seeking to address the objectives of the policy will be promulgated to:
- (i) Streamline the regulation of the liquor industry and its associated socio-economic effects within the Province; and
  - (ii) among others, consider town planning, suitability of buildings and premises, safety, environment, South African Revenue Services legislations; municipal by-laws pertaining to noise and noise regulations, health, clients parking, etc.
- 1.7 Prohibits the issuing of liquor licenses to petrol stations premises;
- 1.8 This document therefore seeks to generally establish policy imperatives to be considered in the proposed Provincial Liquor Bill. The Policy integrates issues as contained in the draft national Liquor Norms and Standards.

## **2. Problem Statements**

- 2.1 There is prevalent abuse of alcohol that results in considerable avoidable morbidity and mortality of medical conditions such as Foetal Alcohol Syndrome, (FAS), dementia, liver failure and trauma which places a huge burden on the state and the Province has one of the highest FAS rates in the world.
- 2.2 The existence of illegal outlets.
- 2.3 Non-compliance with liquor trading conditions.
- 2.4 Many of the licensed premises are generally located within residential areas and in close proximity to places of worship, schools and other public amenities.

## **3. Purpose of the North West Provincial Liquor Policy**

- 3.1 To lay a framework of regulating and managing the liquor industry;
- 3.2 To lay parameters for consultative process by all stakeholders;

- 3.3 To enable the Provincial Government to monitor and evaluate trends and developments in the liquor industry;
- 3.4 To promote and facilitate public education programmes on the harmful effects of liquor;
- 3.5 To promote research on the nature and extent of socio-economic effects of alcohol abuse;
- 3.6 To discontinue issuance of liquor licenses in residential areas and in proximity to schools and places of worship and strictly monitor the existing licenses in the area and impose stringent conditions on the basis of non-compliance.
- 3.7 To give a special consideration to the Historically Disadvantaged Individuals.

#### **4 Powers of the Liquor Licensing Authority**

The Liquor Licensing Authority will have powers to:

- a) Grant or refuse licenses;
- b) Renew such licenses;
- c) Suspend or withdraw licenses;
- d) Consider reports on opposed applications by the police, a licensing inspector; a health official or objection by any person having interest in the matter;
- e) Submit reports annually to the responsible Member of the Executive Council;
- f) Summon licensees to appear before the Liquor Licensing Authority;
- g) Require licensee to furnish information in his or her possession as required by the Liquor Licensing Authority that is subject to investigation regarding liquor trading.

#### **5. Procedures for the Issuing of licences**

- 5.1 All liquor applications must comply with all relevant legislation or by-laws before being granted any licenses.
- 5.2 The applicant must give notice of intention to apply for a liquor license and should be published in the local newspaper or any related medium.
- 5.3 Licence application notices must be written in a language commonly used in that area and must be at least of an A3 size to be conspicuous and adjacent to the site of the relevant premises unless it is impracticable to do so.

- 5.4 Such a notice should draw the attention of anyone who wishes to lodge an objection to the application to do so within 21 working days from the date of publication with the Liquor Licensing Authority.
- 5.5 All applications for a liquor license should be made with all the necessary documentation as specified in the legislation.
- 5.6 Applications for liquor licenses should be dealt with expeditiously and decisions thereon shall be issued within a period of sixty (60 days) unless objections have been raised in which instance the period may be longer.
- 5.7 Licenses will only be issued to properly zoned areas and are not transferable and can only be utilized for the premises originally licensed;
- 5.8 Communities within one kilometre (1km) radius of the proposed premises must be consulted during the consideration of the license or registration;
- 5.9 Liquor premises in rural areas must be located at least one kilometre (1km) away from schools, places of worship; recreation facilities, rehabilitation or treatment centres and public institutions.
- 5.10 Liquor premises in urban areas should be located at least 500m away from schools, places of worship; recreation facilities, rehabilitation or treatment centres and public institutions.
- 5.11 The radius in urban areas can be increased, taking into consideration the size of the area.
- 5.12 The Liquor Licensing Authority should work closely with the South African Police Service, Traditional Authorities and Municipalities when renewing or granting liquor licenses and must ensure that all applicants or liquor license holders are registered with the South African Revenue Services in terms of Income Tax Act and Customs and Exercise Duties Act.
- 5.13 All new applications received should be required to ensure that liquor premises are in properly zoned areas for their respective type of business in line with Municipal by-Laws or through the approval of the Tribal Authority.
- 5.14 Current liquor license-holders within residential will continue to have their licenses renewed until the Liquor Licensing Authority is advised otherwise by the Municipality or the Tribal Authority concerned and will be given a period of 24 months within which to comply with new requirements as may be the case.
- 5.15 The Liquor Licensing Authority will accept liquor application documents or any other documents relating to liquor trading compiled personally or from accredited consultants or service providers.

## 6 Categories of Liquor Licenses

Licenses for the micro manufacturing and selling of liquor including traditional African beer (both industrial brew and home brew), will fall under the following, viz.:

a) On-Consumption Licenses, viz.:

- i) Accommodation
- ii) Restaurant;
- iii) Theatre;
- iv) Club Liquor License;
- v) Sports Ground;
- vi) Sports Bar
- vii) Night Club;
- viii) Gaming Premises;
- ix) Tavern;
- x) Pub.

b) Off-Consumption Licenses, viz:

- a) Grocers' Wine;
- b) Bottle Stores.
- c) Brewer's (Micro –Manufacturing)

d) Special Events Licenses. (Temporary or Occasional Licenses)

These shall be licenses issued for not more than two (2) consecutive days to a maximum of ten (10) days and which cannot be re-issued to an individual or a company in the same location in a period of one calendar year, save for exceptional circumstances.

## 7 License Fees

The Liquor Licensing Authority will propose new license tariffs to the Member of the Executive Council Responsible Liquor Administration and Control which will be approved in consultation with the Member of the Executive Council Responsible for Finance.



## **8 License Renewals and Compliance Monitoring**

- 8.1 Liquor licenses, other than special events licenses, will remain valid for one (1) year from the date of issue.
- 8.2 An application for renewal must be made within three months before expiry.
- 8.3 The renewal will be granted on condition that the licensee has previously been complying with licence conditions.
- 8.4 During the period of existence of a license, regular monitoring will be conducted to ensure compliance with the conditions of licensing.
- 8.5 In the event of a license holder not complying with the requirements of the license conditions as stated, the Liquor Licensing Authority can also summon the license holder to make representations why the licence should not be withdrawn; alternatively, such a licence holder may be given a fine in accordance with a schedule of fines determined in the Regulations.

## **9 Retail Premises Licenses Conditions**

All licensed premises (including premises to which a special events' license has been issued), shall:

- a) Have a reasonable range of non-alcoholic drinks and beverages available for consumption on the premises.
- b) Strictly prohibit access to intoxicated persons and underage persons;
- c) Adhere to official trading hours and business days in accordance with the stipulation of the Act or the local Municipal by-laws governing the liquor trade.
- d) At all times sell liquor at a price and no discounts designed for students or underage persons to buy liquor shall be offered on liquor products.
- e) Not use liquor as an incentive, or payment in lieu of services rendered.
- f) Provide safety and evacuation measures including fire extinguishers and any other safety methods as prescribed by relevant legislation and/ or By-laws; No premises shall be licensed unless it can be demonstrated that basic safety and evacuation measures exist.
- g) Licensees are strictly prohibited to sell liquor for resale to unlicensed people.

**10. On-Consumption Licensed Premises**

All On-Consumption Premises shall:

- a) Provide clean and well maintained ablution facilities for each gender at no additional cost to the patrons.
- b) Restaurant must provide food for consumption at all times during business hours,
- c) Cause the designation of the whole or any parts of the premises as a restricted area or supervised area.
- d) Have designated smoking areas.
- e) Be weapon free. (A safe should be made available in case persons in possession of guns or sharp objects are allowed to enter premises).
- f) Not sell liquor for take away or consumption off the licensed premises.

**11. Off consumption licensed premises**

- a) Licensees should not allow liquor to be consumed on the licensed premises;
- b) Licensees must also provide ablution facilities for the clients;
- c) on-consumption liquor licenses are prohibited within the off-consumption liquor premises;

**12. Special Events Licences (For On-Consumption)**

- a) Will be issued for on-consumption purposes and licensees should not allow liquor to be consumed off the licensed premises;
- b) Licensees must provide ablution facilities for the clients;
- c) Premises must have designated smoking areas.

**13 Trading hours**

<b>Off Consumption License</b>		
· Grocers' Wine	Monday – Saturday	09H00 – 20H00 Sunday and Public Holidays closed.

• Bottle Stores	Monday – Saturday	09H00 – 20h00 Sunday and Public Holidays closed.
<b>On Consumption License</b>		
• Accommodation	Monday – Sunday	10H00 – 00H00
• Restaurant	Monday – Sunday	10H00 – 00H00
• Theatre	Monday – Sunday	10H00 – 00H00
• Club Liquor license	Monday – Sunday	10H00 – 00H00
• Sport ground	Monday – Sunday	10H00 – 00H00
• Night Club	Monday – Sunday	18H00 – 00H00
• Theatre	Monday – Sunday	10H00 – 00H00
• Gaming premises	Monday – Sunday	10H00 – 00H00
• Tavern	Monday – Sunday	10H00 – 00H00
• Pub	Monday – Sunday	10H00 – 00H00
<b>Special Event License</b>		
• Business zone	On the day of the event	10H00-00h00
• Residential area	On the day of the event	10H00-00H00
<b>Manufacturers</b>		
Brewer's (Micro –Manufacturing)	7 days a week	24 Hours
Tasting	Monday-Sunday	10H00-18H00

#### **14. Noises, Nuisance and Pollution**

- a) The licensee should take all reasonable steps to ensure that noise from the liquor premises will remain within the walls of such liquor premises at all times.
- b) Liquor premises and surrounding areas should be kept clean at all times and the licensee remains liable and responsible for all land pollution and littering within and outside the liquor premises.
- c) There should be no loitering by patrons outside the on-consumption liquor premises and all sales and consumption of liquor should be confined to the liquor premises.

#### **15. Powers of Inspectors**

Inspectors are officials employed by the Liquor Licensing Authority and duly appointed as inspectors as will be prescribed in the legislation and their duties and power shall amongst others entail the following:

- a) The right to enter licensed premises.
- b) Obtain information required by the Liquor Licensing Authority.
- c) Make copies or extract from record kept by the Licensees.
- d) Inspect and search premises for compliance with licence conditions.
- e) Seize anything, upon receipt that might have a bearing on the investigation in question.
- f) Access all record kept by the Licensees relating to liquor trading.
- g) Issue fines to non-compliant Licensees as will be determined in the legislation.

#### **16 The Last Point of Sale Rule**

All liquor license holders have a responsibility to trade responsibly and to adhere to their license conditions and all laws of the Republic. Licensees also have a responsibility to assist government in reducing the socio-economic costs of alcohol abuse.

Failure to observe the mandatory licensing conditions may lead to the suspension or termination of a liquor license.

## **17 Record Keeping**

License holder must keep a record for all sales of twenty five (25) litres or more to any unlicensed person. This must be in a written or electronic form; and must contain the following information:

- a) Full names, and address of the purchaser;
- b) The kind and quantity of the liquor supplied;
- c) The purchase prices paid and discount given, if any.
- d) Date of purchase

## **18. Promotions and Sponsorship of Educational Events**

No persons should sponsor or offer sponsorship in the form of liquor for educational, entertainment or any other activities within institutions of learning. Furthermore, no person shall run, directly or indirectly, promotions or marketing campaigns for any liquor products within institutions of learning or any of its structures.

## **19. Education and Capacity Building**

- 19.1 The Provincial Government should ensure that effective structures are put in place for purposes of intensifying educational campaigns throughout the province.
- 19.2 Liquor license holders and other people dispensing liquor should be trained on a regular basis on the Statutes, Regulations and Norms and Standards.
- 19.3 Educational campaigns should be intensified provincially on all issues relating alcohol abuse. Educational campaigns should also be directed at promoting an ethos of social responsibility within the liquor industry and an emphasis on the community's role in fighting and preventing alcohol abuse.

## **20. Register of Liquor Traders' Associations**

- 20.1 The Liquor Licensing Authority should keep a register of all liquor traders' associations operating within their respective jurisdictions.

- 20.2 Liquor traders' associations should be regulated by the applicable liquor legislation and should serve as education and information hubs for licensees subscribed to their constitutions.
- 20.3 Liquor associations should also assist in ensuring and encouraging compliance with relevant liquor laws and eradicating illegal liquor trading.

## **21 Curbing the Number of Liquor Licenses**

The Member of the Executive Council responsible for the control and administration of liquor trading and administration may where necessary or on advice, put a cap on the maximum number of additional licenses that can be issued in a specific area and this should take into consideration the concentration of liquor outlets within an area, including population density. Where a cap has been imposed, the position shall be reviewed after five (5) years after an impact assessment has been done.

## **22 Minimum Drinking and Purchasing Age**

- 22.1 The licensee, manager or any other person dispensing liquor at the premises should take steps to ensure verification of the age of any person who appears to be under the age of eighteen (18) years by requesting an identity document, passport or drivers' license in order to verify the person's age before any liquor may be sold or supplied to them. It should be an offence for a licensee, or manager or any other person dispensing liquor to sell to an underage person. To do so should be an offence punishable by fine. Repeat offenders' licenses should be suspended or withdrawn.
- 22.2 It should be an offence for a person under the age of eighteen (18) years to present false evidence of their age in order to access liquor or enter a liquor premises.
- 22.3 Liquor should not be sold or supplied to any person who refuses to provide identification when requested by a licensee for purposes of verifying the person's age. On refusal to provide identification it shall be deemed that the person is indeed under the age of eighteen (18) years and does not qualify to purchase or consume liquor. Such person shall be informed to leave the liquor premises immediately.
- 22.4 It should also be an offence for any person to purchase liquor for or on behalf of a person who is under the age of eighteen (18) years.

## **23 Sale or Supply of Liquor to a Visibly Pregnant Woman**

- 23.1 Where the licensee suspects that a patron might be pregnant, such patron should be informed of the dangers of consuming alcohol whilst pregnant.
- 23.3 The local clinic and social services should offer assistance should there be a dispute. Local clinics and social services must also be empowered to educate pregnant women of the dangers of consuming liquor whilst pregnant.

## **24. Sale of Liquor to Intoxicated Persons**

The licensee, manager or person in charge of the premises should not sell or supply liquor to any person who already appears intoxicated. To do so should be an offence and continuous act should also lead to suspension or termination of a license.

## **25 Consultation**

- 25.1 Where a general policy is to be established, it is important that we come up with consultation programme so that all those concerned should be given the opportunity to give inputs prior to the Liquor Bill being finalized.
- 25.2 The draft policy should be distributed widely within the industry and some other public notification be employed.
- 25.3 Provide an opportunity for submissions to be lodged and scheduled dates for hearing for interested parties who wish to be heard in support of their submissions.

## **26. Policy as a Basis for the Liquor Bill to Be Considered In Determining License Application**

- 26.1 The policy is the basis for the liquor legislation and once the legislation has been promulgated, the policy will form part of the guidance to be used in determining clarity.
- 26.2 Each application will be processed on merit and therefore the policy should not be looked upon as a set of rigid rules. Likewise the decision and conditions for considered applications should not be purely considered as precedents for subsequent applications.

- 26.3 The responsible Department must also put in place mechanism that will assist citizens to apply and participate successfully in the liquor industry. There is an observation that ordinary citizens are made to rely much on the legal practitioners or consultants in order to gain entry.
- 26.4 There must also be systems in place that will handle appeals against what may be considered to be irregular or unfair decisions taken against applicants or licensed liquor traders. The tendency currently is to refer citizens to the courts of law through lawyers, which can be very expensive.

## **27 The Adoption of the Provincial Draft Liquor Policy**

The formal adoption of this draft Provincial Liquor Policy by the Provincial Executive Council shall subsequently create an opportunity for the development of the Provincial Liquor Bill which should come into operation before the end of 2014.