



**NORTH WEST
NOORDWES**

EXTRAORDINARY • BUITENGEWOON

**PROVINCIAL GAZETTE
PROVINSIALE KOERANT**

Vol. 260

MAHIKENG
1 NOVEMBER 2017
1 NOVEMBER 2017

No. 7819

We all have the power to prevent AIDS



**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

Prevention is the cure

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

ISSN 1682-4532



9 771682 453002

07819



IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

CONTENTS

	<i>Gazette</i>	<i>Page</i>
	<i>No.</i>	<i>No.</i>
PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS		
236	North West Liquor Licensing Amendment Bill, 2017: Public comments.....	7819 3

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 236 OF 2017**NORTH WEST LIQUOR LICENSING AMENDMENT BILL, 2017**

I, Wendy Nelson, Member of the Executive Council responsible for Finance, Economy and Enterprise Development hereby gives notice to publish the draft North West Liquor Licensing Bill, 2017 for public comments.

Members of the public are invited to submit to the MEC, within 30 days after the publication of the Notice in the Gazette, written representation to the draft North West Liquor Licensing Bill, 2017 should send to the following address:

Given under my Hand at Mahikeng, this *24th* day of *October* Two thousand and seventeen

By Post to : Acting Deputy Director General: Department of Finance, Economy and Enterprise Development

Attention : Ms Phemelo Jood
Private Bag X15
MMABATHO
2735

Tel : 018-387 7820/1
Fax : 086 764 7859
Email Address: lilekaiake@nwdpg.gov.za

Hand Delivery : NWDC Building
Cnr University Drive and Provident Streets
2nd Floor
MMABATHO



HON WENDY JOY NELSON

Member of the Executive Council of the North West Province
responsible for Finance Economy and Enterprise Development

**NORTH WEST
LIQUOR LICENSING AMENDMENT BILL,
2017**

—————
*(As introduced in the Provincial Legislature)
(The English text is the official text of the Bill)*

—————
**(MEMBER OF THE EXECUTIVE COUNCIL FOR FINANCE ECONOMY AND
ENTERPRISE DEVELOPMENT)**

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments
_____ Words underlined with a solid line indicate insertions in existing enactments

BILL

To amend the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016), so as to effect textual amendments; to insert new definitions and new provisions; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the North West Province, as follows:-

Amendment of section 1 of Act 6 of 2016

1. Section 1 of the principal Act is hereby amended –

(a) by the deletion of the definition of “**Chief Executive Officer**” after the definition of “**beer**”;

(b) by the substitution of the definition of “**licensed premises**” of the following definition: “**licensed premises**” means the prescribed premises on which liquor may be micro-manufactured or sold under a licence or permit in terms of this Act;

(c) by the substitution of the definition of “**nightclub**” of the following definition: “**nightclub**” means licensed liquor premises that are open [at night] in the evening until early morning and where dancing and music is usually provided;

(d) by the deletion of “**public servant**” after the definition of “**public office bearer**”; ;
and

(e) by the insertion of the definition of “**officer**” after the definition of “**nightclub**”:
“**officer**” means a departmental official assigned to provide administrative support to the Liquor Authority in terms of section 5(6);”.

Insertion of Section 3A in of Act 6 of 2016

2. The following section is inserted after section 3 of the principal Act:

Exemptions

3A.(1) The responsible Member may, on application and if circumstances so warrant, declare that this Act, excluding such provisions as he or she may determine, do not apply to the sale of liquor –

(a) on premises occupied, controlled or maintained by a department or public entity;

(b) to employees of a department or public entity contemplated in subsection (1) and its bona fide guests, for consumption on such premises;

(c) in a restaurant on premises occupied, controlled or maintained by a department or public entity;

(d) on a statutory institution on premises in or at a public resort, national park or game or nature reserve;

(e) on a principal of an educational institution in a restaurant used for the training of persons in catering services on premises occupied, controlled or maintained by the institution concerned, for consumption in that restaurant;

(2) The responsible Member may, on application and if the circumstances so warrant, declare that this Act, excluding such provisions as he or she may determine, do not apply to the sale, by a person named in the declaration, of liquor –

(a) if that person is a collector of wine and that liquor consists of his or her collection of wine or any part thereof;

(b) if that person is a licensed auctioneer acting on behalf of a bona fide cultural or welfare organisation or an educational institution.

(3) A declaration issued under subsection (1) or (2) may be subject to such conditions set out therein as the responsible Member may in his or her discretion impose.

(4) The responsible Member may at any time after the issue of a declaration under subsection (1) or (2), by a notice delivered or tendered to the person named in the declaration concerned, subject to the relevant provisions of the

Promotion of Administrative Justice Act, 2000 (Act No. 33 of 2000). —

(a) in his or her discretion impose such conditions or further conditions as may be set out in the notice, to which the notice shall be subject;

(b) withdraw or amend any condition imposed by him or her under this section;

or

(c) withdraw or amend such declaration.”

Amendment of section 2 of Act 6 of 2016

3. Section 5 of the principal Act is hereby amended by the substitution of subsection (4) of the following subsection and insertion of subsections (5) and (6):

“Establishment of Liquor Authority

5.(1) The North West Liquor Authority is hereby established.

(2) The Liquor Authority is a provincial government component contemplated in section 7A of the Public Service Act, 1994 (Proclamation 103 of 1994, as amended).

(3) The Liquor Authority is subject to the Public Finance Management Act.

(4) The [**Chief Executive Officer**] head of department is the accounting authority of the Liquor Authority, as contemplated in section 49(2)(b) of the Public Finance Management Act.

(5) The department must provide administrative and financial support to the Liquor Authority

(6) In providing the administrative and financial support contemplated in subsection (5), the head of department may assign an officer to provide such administrative support.”

Amendment of section 6 of Act 6 of 2016

4. Section 6 of the principal Act is hereby amended by the substitution of the following section:

“Objects of Liquor Authority

6. The objects of the Liquor Authority are to –

- (a) consider [**and approve**] liquor licence applications in the Province;
- (b) issue licences in terms of Chapter 6 of this Act;
- (c) enhance accessibility of liquor licences in the Province;
- (d) ensure a uniform, fair, equitable and transparent process in the issuing of liquor licences; and
- (e) work with the responsible Member, the Department, municipalities and the liquor industry in the Province in order to implement and promote national and provincial liquor policies and norms and standards.”.

Amendment of section 9 of Act 6 of 2016

5. Section 9 of the principal Act is hereby amended by the substitution of the following section:

“Disqualification from being appointed to Board of Liquor Authority

9. A person is disqualified from being appointed to the Board of the Liquor Authority or from remaining on the Board of the Liquor Authority, by reason that he or she –

- (a) is or becomes an unrehabilitated insolvent;
- (b) is or has been declared by a competent court to be of unsound mind;
- (c) is directly or indirectly interested in any contract with the Liquor Authority and fails to declare his or her interest and the nature thereof in the manner required by this Act;
- (d) is a person under curatorship;
- (e) has at any time been removed from an office of trust on account of misconduct involving theft or fraud;
- (f) has been convicted and sentenced to a term of imprisonment without the option of a fine, except that the responsible Member may, upon such nominee disclosing full details of the offence in an affidavit, condone a conviction in a manner that is consistent with section 106(1)(e) of the Constitution: Provided that a disqualification in terms of this subsection ends five years after the sentence has been completed;
- (g) fails to disclose an interest in accordance with section 11 or attended or participated in the proceedings of the Liquor Authority while having an interest contemplated in the said section;
- (h) is a public office bearer; or
- (i) is not a citizen of the Republic[**and not resident in the Province**].”.

Amendment of section 8(2) of Act 6 of 2016

6. Section 8(2) of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The members contemplated in subsection (1) must include –

- (a) two persons who are admitted as Attorneys or Advocates with at least five years experience in the legal profession or the administration of justice;
- (b) one person who has knowledge and experience in the field of welfare, socio-economic development or social services;
- (c) one person nominated by the [municipality] South African Local Government Association in the Province who has knowledge and experience in town planning; and
- (d) one member of the South African Police Service of the rank of Superintendent or above, nominated by the Provincial Commissioner of Police.”.

Deletion of Chapter 3 and 4 of Act 4 of 2016

7. Chapter 3 and 4 of the principal Act are hereby deleted.

Amendment of section 29 of Act 6 of 2016

8. Section 29 of the principal Act is hereby amended by the substitution for section 29 of the following section:

“Criteria for designation as liquor licensing officer

29. A person may not be appointed as a liquor licensing officer if that person –

- (a) is not a South African citizen[**and resident in the Province**];
- (b) is an unrehabilitated insolvent;
- (c) is subject to an order of a court declaring such person to be mentally ill or disordered;
- (d) has at any time been convicted of any offence involving dishonesty: provided that a disqualification in terms of this subsection ends three years after the sentence has been served;
- (e) has at any time been removed from an office of trust on account of misconduct; or
- (f) has a direct or indirect financial interest in the liquor industry, or whose spouse, life partner or close relative has a direct or indirect financial interest in

the liquor industry, where such relationship in the opinion of the responsible Member constitutes a conflict or potential conflict of interest.”.

Amendment of section 33(3) of Act 6 of 2016

9. Section 33(3) of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The [**Chief Executive Officer**] officer must –

- (a) receive all applications from the liquor licensing officer;
- (b) endorse on each application the date of receipt;
- (c) compile a list of applications and retain and maintain the list as part of the report register contemplated in section 20(1)(b); and
- (d) on receipt of an application, examine the application in order to determine whether it is complete.”.

Amendment of section 33(4) of Act 6 of 2016

10. Section 33(4) of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) If [**the Chief Executive Officer**] an officer determines that the application is incomplete, he or she must within 14 days issue a notice in the prescribed form, calling on the applicant to supplement or remedy the incomplete application within 14 days.”.

Amendment of section 34(1) of Act 6 of 2016

11. Section 34(1) of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“Notice of application

34.(1) The liquor licensing officer must notify the applicant within [**7**] (~~[seven]~~) days that the applicant must give notice of the application in a prescribed form as follows –

- (~~[i]~~**a**) display a notice in the prescribed form and size in a prominent place at the proposed premises, so that it is visible to passers-by; [**and**]
- (~~[ii]~~**b**) if the premises are in a residential area, serve notice of the application in the prescribed form on a member of a household over the age of sixteen years of each of the households occupying residences within a radius of 100 metres of the proposed premises;

- (c) the applicant must, simultaneously with publication of the application in the dominant newspaper circulating in the area where the proposed licensed premises are situated, deliver a copy of the application to the offices of the Station Commissioner of the South African Police Service, relevant tribal authority in whose area of jurisdiction the proposed premises are or will be located; and
- (d) the applicant must submit proof of compliance within seven days from date of publication and notification to the liquor licensing officer.”.

Amendment of section 33(2) of Act 6 of 2016

12. Section 33(2) of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(2) The application must include and be accompanied by –

- (a) the physical address of the premises where the business will be conducted or a description of the location of the premises in terms of identifiable landmarks;
- (b) a detailed written motivation in support of the licence application;
- (c) the required particulars of the applicant;
- (d) the category in respect of which licensing is being sought;
- (e) in relation to the premises in respect of which licensing is being sought, the prescribed details in respect of the premises, including a detailed sketch plan of the premises;
- (f) proof of application for or proof of business or trading licence issued by the relevant municipality in terms of any law, relevant tribal authority resolutions, including relevant minutes of such tribal resolutions or by-law to enable the applicant to trade in the manner contemplated, where applicable;
- (g) a certificate issued by the South African Police Service indicating the criminal offences of which the applicant has been convicted, if any;
- (h) tax clearance certificate issued by South African Revenue Service indicating whether the applicant is registered as a taxpayer, and whether any taxes are outstanding
- (i) proof of lawful occupation of the premises, in the form of a title deed or a lease agreement in the name of the applicant or a permission to occupy the premises issued in favour of the applicant by the relevant authority, where applicable; and
- (j) a written consent from the owner of the premises or the relevant authority

for the applicant to conduct the intended business from the premises concerned, where applicable.”.

Amendment of section 34(3) of Act 6 of 2016

13. Section 34(3) of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(3) The notices referred to in subsection (1)(b) must state that –

(a) the application will be open for inspection at the offices of the relevant liquor licensing officer and the office of the relevant Station Commissioner of the South African Police Service for a period of 21 days from the date of publication of the notice in the newspaper as contemplated in subsection (1)(b)(i); and

(b) any interested person may object to or make representations for or against the granting or refusal of the application to the relevant liquor licensing officer within the 21 day period from the date of lodgement.”.

Amendment of section 36(2) of Act 6 of 2016

14. Section 36(2) of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) If the applicant fails to comply with the notice referred to in subsection (1) (b), the liquor licensing officer must [decline] in a manner prescribed, accept the application and forthwith inform the applicant of the defect in the application and forward such application to the [Chief Executive Officer] officer for a decision [accordingly].”.

Amendment of section 37(1) of Act 6 of 2016

15. Section 37(1) of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“Inspections

“37.(1) On expiry of the periods referred to in section 35(1) and (4), the liquor licensing officer must direct an inspector as contemplated in section 73(1)(a) to carry out an inspection to determine –

(a) the physical address or description of the location of the premises;

(b) the proximity of other licensed premises within residential areas, schools and religious institutions to the proposed premises; **[and]**

(c) the details referred to in section 33(2)(e) and

(d) the criteria referred to in section 40(5) and (6)."

Amendment of section 40(5) of Act 6 of 2016

16. Section 40(5) of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(5) Before granting an application, the Board of the Liquor Authority must satisfy itself that –

- (a) the granting of the application will be in the public interest;
- (b) the applicant is not disqualified from holding a licence in terms of this Act;
- (c) the premises upon which the sale or consumption of liquor will take place are or will upon completion be suitable for use by the applicant for the purposes of the licence; and
- (d) the use of the proposed premises for the proposed activity would not be contrary to existing zoning laws or land use rights and relevant tribal authority resolutions, including relevant minutes of such tribal resolutions."

Amendment of section 43 of Act 6 of 2016

17. Section 43 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

"Communication of decision

43.(1) Within seven days of the Board of the Liquor Authority having made a decision on an application, [the Chief Executive Officer] an officer must communicate the decision in writing –

- (a) to the applicant and, where the application has been granted subject to conditions or has been refused, provide reasons for the decision; and
- (b) to any person who objected to or made representations in the manner prescribed, where the application has been granted.

(2) [The Chief Executive Officer] An officer must simultaneously inform the applicant that the licence will be issued upon payment of the prescribed fee."

Amendment of section 44(4) of Act 6 of 2016

18. Section 44(4) of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) [The Chief Executive Officer] An officer must –

- (a) receive all such applications;
- (b) endorse on each such application the date of receipt;
- (c) compile a list of the applicants and retain and maintain the list as part of the report register contemplated in section 20(1)(b); and
- (d) on receipt of the application, examine the application in order to determine whether it is complete.”.

Amendment of section 44(5) of Act 6 of 2016

19. Section 44(5) of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) If [the Chief Executive Officer] an officer determines that the application is incomplete, he or she must notify the applicant in writing and call upon the applicant to supplement or remedy the incomplete application within five days.”.

Amendment of section 46 of Act 6 of 2016

20. Section 46 of the principal Act is hereby amended by the substitution for the following sections:

“Communication of decision

46. Once the Liquor Authority has made a decision on an application for a special events permit, [the Chief Executive Officer] an officer must communicate the decision to the applicant and, where applicable, inform the applicant that the permit will be issued upon payment of the prescribed fee.”.

Amendment of section 47(3) of Act 6 of 2016

21. Section 47(3) of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) [The Chief Executive Officer] An officer must –

- (a) receive all such applications directly from the applicants or from the local officers;
- (b) endorse on each such application the date of receipt;
- (c) compile a list of applicants and retain and maintain the list as part of the report register contemplated in section 20(1)(b); and
- (d) on receipt of the application, examine the application in order to determine

whether it is complete.”.

Amendment of section 47(4) of Act 6 of 2016

22. Section 47(4) of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) If [the Chief Executive Officer] an officer determines that the application contemplated in section 47(1) is incomplete, he or she must within a reasonable period issue a notice in the prescribed form, calling on the applicant to supplement or remedy the incomplete application within 14 days.”.

Amendment of section 48(1) of Act 6 of 2016

23. Section 48(1) of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) [The Chief Executive Officer] An officer must within 14 days of receipt of a complete application contemplated in section 47(1), request an inspector to inspect the premises to determine the suitability thereof.”.

Amendment of section 51 of Act 6 of 2016

24. Section 51 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

“Communication of decision

51.(1) Within seven days of the Liquor Authority having made a decision on an application, [the Chief Executive Officer] an officer must communicate the decision in writing to the applicant, and where the application has been granted subject to conditions or has been refused, provide reasons for the decision.

(2) [The Chief Executive Officer] An officer must simultaneously inform the applicant that the licence will be issued upon payment of the prescribed fee.”.

Amendment of section 54(1) of Act 6 of 2016

25. Section 54(1) of the principal Act is hereby amended by the substitution for subsections (1) of the following subsections:

"Licence certificate or permit

54.(1) [The Chief Executive Officer] An officer must, after a licence or permit has been granted by the Liquor Authority and after having received payment of the prescribed licence or permit fee –

- (a) issue a licence certificate or permit in the applicant's name in the prescribed form, which must include –
 - (i) a licence or permit number;
 - (ii) the date on which the applicant's name was entered in the register;
 - (iii) the premises in respect of which a licence or permit has been granted, if applicable;
 - (iv) the terms and conditions upon which the licence or permit was granted, including the trading days and trading hours; and
 - (v) the category of licence or permit; and
- (b) send the licence certificate or permit to the applicant."

Amendment of section 56(5) of Act 6 of 2016

26. Section 56(5) of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

"(5) If the annual fee, together with the penalty referred to in subsection (4), is not paid during the seventh month after the annual fee is due, the Liquor Authority must instruct **[the Chief Executive Officer]** an officer to, subject to the relevant provisions of the Promotion of Administrative Justice Act, 2000 (Act No.3 of 2000), –

- (a) cancel the licence in question;
- (b) endorse the register accordingly; and
- (c) notify the licensed person in writing of the cancellation, the reasons for the cancellation and the date of the cancellation."

Amendment of section 57 of Act 6 of 2016

27. Section 57 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

"Cancellation of licence on grounds of disqualification

57.(1) If a licensed person becomes disqualified or otherwise incompetent in terms of this Act, the Liquor Authority must instruct **[the Chief Executive Officer]** an officer to

- (a) cancel the person's licence certificate or permit;

- (b) notify the person in writing of the cancellation, the reasons therefor and the date on which the licence or permit was cancelled; and
- (c) amend the register accordingly.

(2) For the purposes of subsection (1), cancellation takes effect on the date on which the licence certificate or permit is cancelled by **[the Chief Executive Officer]** an officer.

(3) When a licence certificate or permit has been cancelled in terms of subsection (1), all the rights, benefits and allowances accruing therefrom lapse immediately.”.

Amendment of section 58(3) of Act 6 of 2016

28. Section 58(3) of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Once a licence has been cancelled by the Liquor Authority, **[the Chief Executive Officer]** an officer must amend the register and notify the licence holder in writing accordingly.”.

Amendment of section 59(3) of Act 6 of 2016

29. Section 59(3) of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Upon receiving a notice referred to in subsection (1) and (2), the Board of the Liquor Authority must instruct **[the Chief Executive Officer]** an officer to –

- (a) cancel the licence certificate or permit of the person or endorse the transfer of the person’s licence certificate or permit to the relevant administrator, with effect from the date specified in the notice.”.

Amendment of section 83(2) of Act 6 of 2016

30. Section 83(2) of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) **[The Chief Executive Officer]** An officer must amend the register accordingly.”.

Insertion of Section 84A in of Act 6 of 2016

31. The following section is inserted after section 84 of the principal Act:

Prohibitions

84A.(1) No person may –

- (a) sell liquor without a valid licence or permit issued in terms of this Act;
- (b) sell liquor outside the licensed premises demarcated for on-consumption;
- (c) sell liquor for off-consumption whilst being a licence holder for on-consumption;
- (d) allow a minor to enter licensed premises; or
- (e) disturb an inspector or any officer of the Liquor Authority from performing his or her functions.

(2) A license holder may not –

- (a) sell liquor on unlicensed premises;
- (b) transfer a licence without approval from the Liquor Authority;
- (c) allow any person to leave with or remove any liquor from on-consumption licensed premises;
- (d) sell liquor outside trading days and trading hours prescribed in terms of the Act; or
- (d) play or allow any person to play loud music outside the licensed premises after 22h00.

(3) The provisions of subsection (1)(d) do not apply to a holder of an accommodation, grocer and restaurant licence holder.

(4) Any person contravening the provisions of subsections (1) and (2), commits an offence.”

Amendment of section 90(2) of Act 6 of 2016

32. Section 90(2) of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Where a court has convicted a person of an offence in terms of this Act, **[the Chief Executive Officer]** an officer **[or clerk of the court]** must inform the Liquor Authority accordingly.”.

Amendment of section 93 of Act 6 of 2016

33. Section 93 of the principal Act is hereby amended by the substitution for subsections (1),

(2), (3) and (4) of the following subsections:

"Conversion of licences[, approvals, notices and determinations]"

93.(1) Notwithstanding the provisions of section 31, and in accordance with the transitional provisions of the Liquor Act –

(a) every licence or approval set out in the first column of Schedule 2 and in force immediately before the date of commencement of this Act, is from the commencement date of this Act regarded as a licence in the category set out in the second column of Schedule 2: Provided that –

(i) the terms and conditions and trading days and trading hours applicable to such licence, immediately prior to this Act coming into effect, continue in force until the date upon which such licence is required to be renewed in terms of the Liquor Act, 1989 (Act No. 27 of 1989);

(ii) the said terms and conditions and trading days and trading hours are not inconsistent with the provisions of this Act; and

(iii) in the event that the said terms and conditions or trading days and trading hours are inconsistent with the provisions of this Act, then the provisions of this Act are applicable;

(b) a notice issued in terms of section 33 of the Liquor Act, 1989 (Act No. 27 of 1989), and in force immediately before the date of commencement of this Act, are regarded as conditions set out in writing in terms of section 46 and 55 of this Act; and

(c) any determination made in terms of section 51 of the Liquor Act, 1989 (Act No. 27 of 1989), and in force immediately before the date of commencement of this Act, is regarded as a consent granted in terms of section 64(1) of this Act.

(2)(a) The holders of the licences[, **approvals, notices and determinations**] referred to in subsection (1) are entitled to a licence certificate or permit in terms of section 54 of this Act for the relevant category of licence as contemplated in section 31, without having to comply with the application procedure for such a licence or permit contemplated in Chapter 6.

(b) All existing terms and conditions and trading hours applicable to such licences[, **approvals, notices and determinations**] must be endorsed on the licence certificate in accordance with subsection (1).

(3)(a) The holders of the licences[, **approvals, notices and determinations**] referred

to in subsection (1) must receive such licence certificate or permit upon presentation to the Liquor Authority of proof of their licences[, **approvals, notices and determinations**] referred to in subsection (1) and the terms and conditions and trading hours to which such licences[, **approvals, notices and determinations**] are subject, and upon payment of the annual fee prescribed in terms of section 56.”.

(b) The holders of the licences, approvals, notices and determinations referred to in subsection (1) must obtain their licence certificates or permits under this Act within three years of the commencement of this Act.

(4) In the event that a holder does not convert the licences[, **approvals, notices and determinations**] within the prescribed period referred to in subsection (3)(b), such licences, approvals, notices and determinations become invalid, as provided for in the transitional provisions of the Liquor Act.”.

Amendment of section 94 of Act 6 of 2016

34. Section 94 of the principal Act is hereby amended by the substitution for subsections (4) and (6) of the following subsections:

“(4) [**The Chief Executive Officer**] An officer must maintain a record in the prescribed manner of each application referred to in subsection (1).

(6) If the application referred to in subsection (1) is granted, [**the Chief Executive Officer**] an officer must forthwith issue a written temporary amnesty notice to the applicant in respect of a category of licence referred to in section 31, setting forth the prescribed information.”.

Amendment of section 95(2) of Act 6 of 2016

35. Section 95(2) of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Notwithstanding anything to the contrary contained in this Act, on the date on which this Act comes into operation, any lawful act, determination, designation, decision, matter or any other thing done, made, taken, executed or carried out or purported to have been done, made, taken, executed or carried out by the Liquor Board or a member of staff of the Liquor Board, including a member of the Liquor Board or [**the Chief Executive Officer**] an officer of the Liquor Board, or the

responsible Member, in pursuance of the Liquor Act, is regarded to have been done, made, taken, executed or carried out or issued under this Act.”.

Substitution of Schedule 2 of Act 6 of 2016

36. Schedule 2 of the principal Act is hereby substituted with the following Schedule:

SCHEDULE 2

Conversion of licences[, approvals, notices and determinations] (Section 93)

Category/ type of licence or approval in force immediately before the date of commencement of this Act	Category of licence deemed to be in force from the date of commencement of this Act, subject to section [98]93(4)
An exemption referred to in section 4(1) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section [36]31(1)(a)(ii) or (vii) of this Act
A hotel liquor licence referred to in section 20(a)(i) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section [36]31(1)(a)(i) of this Act
A restaurant liquor licence referred to in section 20(a)(ii) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section [36]31(1)(a)(ii) of this Act
A wine-house licence referred to in section 20(a)(iii) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section [36]31(1)(a)(vii) of this Act
A theatre liquor licence referred to in section 20(a)(iv) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section [36]31(1)(a)(ix) of this Act
A club liquor licence referred to in section 20(a)(v) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section [36]31(1)(a)(iii) of this Act
A sorghum beer licence referred to in section 20(a)(vi) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section [36]31(1)(a)(vii) or (viii) of this Act
A special licence referred to in section 20(a)(vii) of the Liquor Act, 1989	A licence for the retail sale of liquor in a category referred to in section [36]31(1)(a) most similar to that category of this Act
A temporary liquor licence referred to in section 20(a)(viii) of the Liquor Act, 1989	A special events permit referred to in section [36]31(1)(c) of this Act
An occasional licence referred to in section 20(a)(ix) of the Liquor Act, 1989	A special events permit referred to in section [36]31(1)(c) of this Act
A brewer's licence referred to in section 20(b)(ii) of the Liquor Act, 1989	A licence for the micro-manufacture, of liquor referred to in section [36]31(1)(d) of this Act, if applicable
A liquor store licence referred to in section 20(b)(iii) of the Liquor Act,	A licence for the retail sale of liquor referred to in section [36]31(1)(b)(i) of this Act

Category/ type of licence or approval in force immediately before the date of commencement of this Act	Category of licence deemed to be in force from the date of commencement of this Act, subject to section [98]93(4)
1989	
A grocer's wine licence referred to in section 20(b)(iv) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section [36]31(1)(b)(ii) of this Act
A wine farmer's licence referred to in section 20(b)(v) of the Liquor Act, 1989	A licence for the micro-manufacture of liquor referred to in section [36]31(1)(d) of this Act
A sorghum beer brewer's licence referred to in section 20(b)(vi) of the Liquor Act, 1989	A licence for the micro-manufacture of liquor referred to in section [36]31(1)(d)
A special licence referred to in section 20(b)(viii) of the Liquor Act, 1989	A licence for the retail sale of liquor in a category referred to in section [36]31(1)(b) of this Act most similar to that category
A producer's licence referred to in section 20(b)(ix) of the Liquor Act, 1989	A licence for the micro-manufacture, including wholesale supply, of liquor referred to in section [36]31(1)(d) of this Act, if applicable
An approval granted in terms of section 60 of the Liquor Act, 1989, to a holder of a wine-house licence	A licence for the retail sale of liquor referred to in section [36]31(1)(b)(i) of this Act
A sports ground liquor licence referred to in section 189 of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section [36]31(1)(a)(vi) of this Act
A special licence (Tavern) referred to in section 20(a)(vii) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section [36]31(1)(a)(viii) of this Act

Substitution of Schedule 3 of Act 6 of 2016

37. Schedule 3 of the principal Act is hereby substituted with the following Schedule:

"SCHEDULE 3

Trading days and trading hours

(Section [61] 70)

[CATEGORY A: ON-CONSUMPTION	TRADING HOURS	TRADING DAYS
1. Accommodation	10h00 – 00h00	Every day
2. Restaurant	10h00 – 00h00	Every day
3. Club	10h00 – 00h00	Every day
4. Nightclub	10h00 – [00h00] 02h00 18h00 – 06h00	[Every day] Monday to Saturday Sun & Public Holidays
5. Gaming premises	10h00 – 00h00	Every day

6. Sports ground	10h00 – 00h00	[Any] <u>Every day</u>
7. Pub	10h00 – 00h00	Every day
8. Tavern	10h00 – 00h00	Every day
9. Theatre	10h00 – 00h00	Every day
CATEGORY B: OFF-CONSUMPTION	TRADING HOURS	TRADING DAYS
1. Liquor store	08h00 – 20h00 <u>09h00 – 17h00</u>	Monday – Saturday [Closed on] <u>Sundays and Public Holidays</u>
2. Grocer's [<u>wine</u>] store	08h00 – 17h00 <u>09h00 – 17h00</u>	Monday – Saturday [Closed on] <u>Sundays and Public Holidays</u>
CATEGORY C: SPECIAL EVENTS PERMIT	TRADING HOURS	TRADING DAYS
[<u>Special events permit</u>]	[<u>Starting of event – Closing of event</u>]	[<u>Any day</u>]
1. <u>Business</u>	<u>10h00 – 00h00</u>	<u>On the day of the event</u>
2. <u>Residential</u>	<u>10h00 – 22h00</u>	<u>On the day of the event</u>
CATEGORY D: MICRO-MANUFACTURER	TRADING HOURS	TRADING DAYS
Micro-manufacturer	[<u>07h00 – 18h00</u>] <u>24 hours</u>	Every day"

Short title

38. This Act is called the North West Liquor Licensing Amendment Act, 2017.

**MEMORANDUM ON THE OBJECTS OF THE NORTH WEST LIQUOR LICENSING
AMENDMENT BILL, 2017**

1. BACKGROUND

1.1 Part A of Schedule 4 read with section 104 of the of the Constitution of the Republic of South Africa, 1996, accords Provinces the legislative competence to regulate liquor licensing

1.2 Just like the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016), this Act seeks to regulate liquor licensing in the Province, and further seeks to address potential challenges that might be experienced with the implementation of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016).

1.3 It further seeks to align trading hours to the National Policy on Liquor.

2. CHAPTER BY CHAPTER EXPLANATION

In summary, the Act provides as follows –

Clause 1

Clause 1 provides for the amendment of definition of terms used in the Act to take care of interpretation challenges associated with the implementation of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016).

Clause 2

Clause 2 empower the responsible Member to accord certain exemptions to certain organs of state in the Province.

Clause 3

Clause 3 amends section 5 of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016), by deleting any reference to the Chief Executive Office, replacing such Chief Executive Office with an assigned or designated Office to provide administrative support to the Liquor Authority. The department must in terms of section 2 of this Act, provide both administrative and financial support to the Liquor Authority.

Clause 4

Clause 4 amends section 6 of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016), by deleting the words "and approve" in paragraph (a).

Clause 5

Clause 5 amends section 9 of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016), by deleting the words "and not resident in the Province" in paragraph (1).

Clause 6

Clause 6 amends section 8(2) of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016), by substituting "municipality" with "South African Local Government Association in the Province" in paragraph (c) of subsection (2).

Clause 7

Clause 7 provides for the repeal of Chapters 3 and 4 of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016) relating to the functions and powers of the Chief Executive Officer and funding of the Liquor Authority as such Liquor Authority will be operating within the department.

Clauses 9, 10, 14, 17 to 30, 32 and 34 to 35

Clauses 9, 10, 14, 17 to 30, 32 and 34 to 35 amend sections 33(3), 33(4), 34(4), 36(2), 43, 44(4), 44(5), 46, 47(3), 47(4), 48(1), 51, 34(1), 336(2), 42, 44(4), 44(5), 46, 47(3), 47(4), 48(1), 51, 54(1), 56(5), 57, 58(3), 59(3), 83(2), 90(2), 94 and 95(2) of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016) as consequential amendments, replacing the Chief Executive Officer, with an Officer.

Clause 11

Clause 11 amends section 34(1) of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016), by correcting the numbering and by imposing an additional condition on the applicant to, simultaneously publish his or her application in the dominant newspaper circulating in the area where the proposed licensed premises are situated,

Clause 12

Clause 12 amends section 33(2) of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016), by the insertion of the words "tribal authority resolution and relevant minutes of such tribal resolution" in paragraph (f).

Clause 13

Clause 13 amends section 34(3) of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016), by the insertion of the words "from the date of lodgment" in paragraph (b).

Clause 15

Clause 15 amends section 37(1) of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016), by the insertion of paragraph (d) with the words "d) the criteria referred to in section 40(5) and (6)".

Clause 16

Clause 16 amends section 40(5) of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016), by placing an additional duty of the liquor licensing officer to direct an inspector as contemplated in section 73(1)(a) to carry out an inspection to determine the criteria referred to in section 40(5) and (6) of the Act.

Clause 31

Clause 31 amends the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016) by the insertion of the prohibitions clause.

Clause 33

Clause 33 amends section 93 of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016) by deleting any reference to "approvals, notices and determinations".

Clause 36

Clause 36 provides for the substitution of Schedule 2 of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016).

Clause 37

Clause 37 provides for the substitution of Schedule 3 of the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016) so as to avoid any potential conflict with the National Policy on liquor trading days and trading hours.

Clause 38

Clause 38 provides for the Short title.

3. PERSONNEL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

Since this Act seeks to amend the the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016) no personnel implications for the Provincial Government are foreseen.

4. FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

Since this Act seeks to amend the North West Liquor Licensing Act, 2016 (Act No. 6 of 2016), no financial implications for the Provincial Government are foreseen.

5. DEPARTMENTS/ BODIES/ PERSONS TO BE CONSULTED OR BODIES CONSULTED

The Act has been drafted in consultation with –

- 5.1 The Portfolio Committee;
- 5.2 Stakeholders or liquor traders;
- 5.3 The Department of Trade and Industry; and
- 5.4 Office of the Chief State Law Advisor.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065

Also available at the **North-West Province**, Private Bag X2036, Mmabatho, 8681. Tel. (0140) 81-0121.