

Gauteng liquor legislation and policies regarding shebeens

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The Gauteng Liquor Laws pose a rather interesting challenge for the liquor Industry at large, often being met with a lot of resistance from the concerned stakeholders, such as liquor traders, liquor forums, The Gauteng Liquor Board and many other various players.

While it is acceptable that there is a need to create policies and legislation that govern and regulate the liquor environment for the public good, the question still remains as to what extent such a legislative framework impacts on the various stakeholders who participate in the liquor industry. At this point, it should be noted that the Gauteng Department of Economic Development has proposed a new Liquor Bill, which is currently being tabled. This new Bill introduces a number of changes that have been met with a lot of resistance from the public. These range from the proposed ban on the sale of liquor on Sundays to new applicants being required to declare their BEE credentials/ratings when lodging new applications.

However, this article will focus primarily on the regulation of shebeens in the Gauteng Province. In an attempt to align the Shebeen Permits, which were previously issued under the blanket approach in the past, the MEC for Gauteng Department of Economic development has, in terms of section 141 (1) (m) of the Gauteng Liquor Act, 2003 read with 141 (1) (p), introduced the Gauteng Liquor Regulations on Shebeen Licences, 2013. (Shebeen Regulations).

Shebeens will be subject to inspection

Under these new regulations, all applicants who were previously in possession of a valid Liquor Permit are entitled to apply for a Shebeen Licence. Furthermore, these Shebeens will be subject to inspection to ascertain whether such premises are suitable for the purposes for which they will be used.

The Gauteng Liquor Board will then be tasked with the consideration and issuing of such licences. This process, however, does not amount to a simple straightforward conversion from a Shebeen Permit to a Shebeen Licence. Essentially, this means that the granting of such a licence is not automatic, with the implications being that an applicant who holds a valid Shebeen Permit and who has been operating a Shebeen Permit for years could face the possibility of his application being declined.

Moreover, another concern rests with the rather stringent requirements placed on applicants who seek on-consumption Shebeen Licences. It appears that, amongst others, applicants will be required to provide separate toilet facilities for male and female patrons, as well as hand-washing facilities for such toilets. The problem with this requirement is that given the historical background of the nature of such businesses, as well as the turnover thereof, it would appear that a financial

burden is created in which shebeen owners are now compelled to build such toilet facilities under their stressed budgets, and even that does not guarantee the granting of the licence. Therefore, one could end up having spent money to do the necessary alterations only to find that the application has been declined.

Appeal procedure

Interestingly, in a situation in which an application has been declined by the Gauteng Liquor Board, the Shebeen Regulations provide for a remedy in the form of an appeal procedure directly to the MEC. It still remains to be seen what relief this offers, if any at all.

Some of the general problems with these Shebeen regulations, since inception on 1 March, 2013, are that there has not been a lot of awareness created. Shebeen Permit holders are given only a year from the date of promulgation to make their applications. What is even worse is that the Department of Economic Development has issued a Public Notice, in terms of which all Shebeen Licence applications are divided per region, with separate lodgement dates for each region.

The dire consequences of this process are such that no applications will be considered outside the timeframes provided for a particular region. Therefore, should an applicant fail to make such an application owing to lack of knowledge, or insufficient education on how the regulations work, that licence is automatically deemed to be invalid.

It also remains to be noted that a person who holds a Shebeen Permit is not precluded from applying for any other licence that he qualifies for under section 23 of the Liquor Act . The idea behind these regulations is that, with time, Shebeen Licences will cease to exist, as the current Liquor Act and the Gauteng Liquor Bill both make no mention of new applications for Shebeen Licences. Therefore, in a case in which an applicant fails to pay the annual renewal fee for a Shebeen Licence within the specified period, it will not be possible to renew such a licence at a later stage as the licence would have lapsed, thus forcing such an applicant to either surrender the business or apply for another kind of licence.

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