

PROVINCE OF THE WESTERN CAPE

**WESTERN CAPE
LIQUOR AMENDMENT BILL**

(As introduced)

(MINISTER OF COMMUNITY SAFETY)

[B 4—2016]

PROVINSIE WES-KAAP

**WES-KAAPSE
DRANKWYSIGINGSWETSONTWERP**

(Soos ingedien)

(MINISTER VAN GEMEENSKAPSEVEILIGHEID)

[W 4—2016]

IPHONDO LENTSHONA KOLONI

**UMTHETHO OSAYILWAYO
WOLUNGISO WOTYWALA
WENTSHONA KOLONI**

(Njengoko wazisiwe)

(NGUMPHATHISWA WEZOKHUSELEKO LOLUNTU)

[B 4—2016]

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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.

AMENDMENT BILL

To amend the Western Cape Liquor Act, 2008, in respect of certain definitions; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Parliament of the Province of the Western Cape, as follows:—

Amendment of section 1 of Act 4 of 2008, as amended by section 2 of Act 10 of 2010 and section 1 of Act 3 of 2015

1. Section 1 of the Western Cape Liquor Act, 2008 (the principal Act), is amended— 5
 - (a) by the substitution for the definition of “Department” of the following definition:

“**‘Department’** means the provincial department responsible for [economic affairs] community safety in the Province;”;
 - (b) by the substitution for the definition of “Minister” of the following definition: 10

“**‘Minister’** means the provincial Minister responsible for [economic affairs] community safety in the Province;”;
 - (c) by the deletion of the definition of “standing committee”.

Substitution of words

2. The principal Act is amended by the substitution for the words “standing committee”, wherever they occur, of the words “relevant standing committee”. 15

Amendment of section 16 of Act 4 of 2008, as amended by section 2 of Act 3 of 2015

3. Section 16 of the principal Act is amended by the deletion in paragraph (d) of subsection (1) of the words “responsible for community safety in the Province”.

Amendment of section 18 of Act 4 of 2008, as amended by section 18 of Act 10 of 2010 and section 4 of Act 3 of 2015 20

4. Section 18 of the principal Act is amended by the deletion in subsection (3) of the words “responsible for community safety in the Province”.

Short title

5. This Act is called the Western Cape Liquor Amendment Act, 2016. 25

**MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE
LIQUOR AMENDMENT BILL, 2016**

1. BACKGROUND

- 1.1 The Western Cape Liquor Authority was established as a juristic person in terms of section 2 of the Western Cape Liquor Act, 2008.
- 1.2 Since its establishment, the executive responsibility for the Western Cape Liquor Authority and the administration of the Western Cape Liquor Act, 2008, and the regulations made thereunder resided with the Provincial Minister responsible for economic affairs in the Province.
- 1.3 The Western Cape Government on 1 April 2016 transferred the executive responsibility for the Western Cape Liquor Authority and the administration of the Western Cape Liquor Act, 2008, and the regulations made thereunder to the Provincial Minister responsible for community safety in the Province.

2. OBJECTS OF THE BILL

- 2.1 The Bill seeks to amend certain provisions so as to reflect the transfer of the executive responsibility for the Western Cape Liquor Authority and the administration of the Western Cape Liquor Act, 2008, and the regulations made thereunder.

3. CONTENTS OF THE BILL

The aims and objectives of the various clauses are set out below.

- 3.1 **Clause 1** substitutes the definitions of “Department” and “Minister” and deletes the definition of “standing committee”.
- 3.2 **Clause 2** substitutes the words “standing committee” with the words “relevant standing committee” wherever they occur in the Western Cape Liquor Act, 2008.
- 3.3 **Clause 3** is a consequential amendment to the substitution of the definition of “Minister”.
- 3.4 **Clause 4** is a consequential amendment to the substitution of the definition of “Minister”.
- 3.5 **Clause 5** provides for the short title of the Act.

4. LEGISLATIVE COMPETENCE

The Provincial Minister responsible for community safety is satisfied that the provisions of the Bill fall within the legislative competence of the Province.

5. CONSULTATION

Department of the Premier
 Department of Economic Development and Tourism
 Department of Community Safety
 Department of Health
 Department of Local Government
 Department of Social Development
 Western Cape Liquor Authority
 South African Police Service
 The South African Local Government Association member of the Liquor Licensing Tribunal
 Provincial Treasury

6. FINANCIAL IMPLICATIONS

There are no financial implications because all budget resources have been transferred to the newly responsible department.

7. PERSONNEL IMPLICATIONS

Affected staff in the formerly responsible department (the Department of Economic Development and Tourism) have been transferred to the newly responsible department (the Department of Community Safety).

MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE DRANKWYSIGINGSWETSONTWERP, 2016

1. AGTERGROND

- 1.1 Die Wes-Kaapse Drankowerheid is ingevolge artikel 2 van die Wes-Kaapse Drankwet, 2008, as 'n regspersoon ingestel.
- 1.2 Sedert die instelling daarvan het die uitvoerende verantwoordelikheid vir die Wes-Kaapse Drankowerheid en die administrasie van die Wes-Kaapse Drankwet, 2008, en die regulasies wat daarkragtens gemaak is, by die Provinsiale Minister verantwoordelik vir ekonomiese sake in die Provinsie berus.
- 1.3 Die Wes-Kaapse Regering het op 1 April 2016 die uitvoerende verantwoordelikheid vir die Wes-Kaapse Drankowerheid en die administrasie van die Wes-Kaapse Drankwet, 2008, en die regulasies wat daarkragtens gemaak is, na die Provinsiale Minister verantwoordelik vir gemeenskapsveiligheid in die Provinsie oorgedra.

2. OOGMERKE VAN DIE WETSONTWERP

- 2.1 Die Wetsontwerp het ten doel om sekere bepalings te wysig ten einde die oordrag van die uitvoerende verantwoordelikheid vir die Wes-Kaapse Drankowerheid en die administrasie van die Wes-Kaapse Drankwet, 2008, en die regulasies wat daarkragtens uitgevaardig is, weer te gee.

3. INHOUD VAN DIE WETSONTWERP

Die doelwitte en oogmerke van die verskeie klousules word hieronder uiteengesit.

- 3.1 **Klousule 1** vervang die omskrywings van “Departement” en “Minister” en skrap die omskrywing van “staande komitee”.
- 3.2 **Klousule 2** vervang die woorde “staande komitee” deur die woorde “tersaaklike staande komitee” oral waar dit in die Wes-Kaapse Drankwet, 2008, voorkom.
- 3.3 **Klousule 3** is 'n gevolglike wysiging van die vervanging van die omskrywing van “Minister”.
- 3.4 **Klousule 4** is 'n gevolglike wysiging van die vervanging van die omskrywing van “Minister”.
- 3.5 **Klousule 5** maak voorsiening vir die kort titel van die Wet.

4. WETGEWENDE BEVOEGDHEID

Die Provinsiale Minister verantwoordelik vir gemeenskapsveiligheid is tevrede dat die bepalings van die Wetsontwerp binne die wetgewende bevoegdheid van die Provinsie ressorteer.

5. OORLEGPLEGING

Departement van die Premier
 Departement van Ekonomiese Ontwikkeling en Toerisme
 Departement van Gemeenskapsveiligheid
 Departement van Gesondheid
 Departement van Plaaslike Regering
 Departement van Maatskaplike Ontwikkeling
 Wes-Kaapse Drankowerheid
 Die Suid-Afrikaanse Polisie

Die Suid-Afrikaanse Vereniging van Plaaslike Regering-lid van die Drank-
lisensiëringstribunaal
Provinsiale Tesourie

6. FINANSIËLE IMPLIKASIES

Daar is geen finansiële implikasies nie omdat alle begrotingshulpbronne na die nuwe verantwoordelike departement oorgedra is.

7. PERSONEELIMPLIKASIES

Geraakte personeel in die gewese verantwoordelike departement (die Departement van Ekonomiese Ontwikkeling en Toerisme) is na die nuwe verantwoordelike departement (die Departement van Gemeenskapsveiligheid) oorgeplaas.

AMAGQABANTSHINTSHI ACACISAYO:

[] Amagama abhalwe ngqindilili akwizibiyeli ezisikweri abonisa okukhutshiweyo kwimithetho ekhoyo.

_____ Amagama akrwelwe umgca ngaphantsi abonisa okuye kongezwa kwimithetho ekhoyo.

ULUNGISO LOMTHETHO OSAYILWAYO

Ukwenza izilungiso kuMthetho woTywala weNtshona Koloni, 2008, ngokubhekiselele ekulungiseni iingcaciso ezithile; kwakunye nokulungiselela imiba ephathelele koko.

NGOKO KE iPalamente yePhondo leNtshona Koloni iphumeza umthetho ngolu hlobo lulandelayo:—

Icandelo 1 loMthetho 4 ka-2008 lenziwa izilungiso, njengoko lenziwe izilungiso licandelo 2 loMthetho 10 ka-2010 nalicandelo 1 loMthetho 3 ka-2015

1. Icandelo 1 loMthetho woTywala weNtshona Koloni, 2008 (uMthetho-ngqangi), 5 lenziwa izilungiso—

(a) ngokususa igama kufakwe elinye kwingcaciso “iSebe” kule ngcaciso ilandelayo:

“‘iSebe’ lithetha isebe lephondo elijongene [**nemicimbi yoqoqosho**] nezokhuseleko loluntu kwiPhondo;”;

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(b) ngokususa igama kufakwe elinye kwingcaciso “uMphathiswa” kule ngcaciso ilandelayo:

“‘uMphathiswa’ uthetha uMphathiswa wephondo nojongene [**nemicimbi yoqoqosho**] nokhuseleko loluntu kwiphondo;”; kwakunye

(c) nokucima ingcaciso “ikomiti esisigxina”. 15

Ukususa igama kufakelwe elinye

2. UMthetho-ngqangi wenziwa izilungiso ngokususa igama elithi “ikomiti esisigxina”, naphi na apho livela khona, kufakwe endaweni yalo elithi “ikomiti esisigxina efanelekileyo”.

Icandelo 16 loMthetho 4 ka-2008, njengoko lenziwe izilungiso licandelo 2 loMthetho ka-2015 20

3. Icandelo 16 loMthetho-ngqangi lenziwa izilungiso ngokucima kumhlathi (d) wecandelwana (1) ibinzana “ojongene nokhuseleko loluntu kwiPhondo”.

Icandelo 18 loMthetho 4 ka-2008 lenziwa izilungiso, njengoko lenziwe izilungiso licandelo 18 loMthetho 10 ka-2010 nalicandelo 4 loMthetho 3 ka-2015

4. Icandelo 18 loMthetho-ngqangi lenziwa izilungiso ngokucima kwicandelwana (3) ibinzana “ojongene nokhuseleko loluntu kwiPhondo”.

Isihloko esifutshane

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5. Lo Mthetho ubizwa ngokuba nguMthetho woLungiso woTywala weNtshona Koloni, ka-2016.

**IMEMORANDAM YEENJONGO ZOMTHETHO OSAYILWAYO
WEZILUNGISO WOTYWALA WENTSHONA KOLONI, 2016**

1. IMVELAPHI

- 1.1 UGunyaziwe wezoTywala weNtshona Koloni wamiselwe njengequmrhu elisemthethweni ngokwecandelo 2 loMthetho woTywala weNtshona Koloni, 2008.
- 1.2 Susela oko lamiselwayo ke, uxanduva lolawulo oluphezulu lukaGunyaziwe wezoTywala weNtshona Koloni nolawulo loMthetho woTywala weNtshona Koloni, 2008, nemigaqo eyenziweyo phantsi kwalo mthetho ziphantsi koMphathiswa wePhondo ojongene nemicimbi yezoqoqosho kwiPhondo.
- 1.3 URhulumente weNtshona Koloni ngomhla wo-1 kuTshazimpuzi 2016 uwelisele uxanduva lolawulo oluphezulu lukaGunyaziwe wezoTywala weNtshona Koloni kwakunye nolawulo loMthetho woTywala weNtshona Koloni, 2008, nemigaqo eyenziwe phantsi kwalo Mthetho kuMphathiswa wePhondo ojongene nokhuseleko loluntu kwiPhondo.

2. IINJONGO ZOMTHETHO OYILWAYO

- 2.1 UMthetho oYilwayo ujolise ekwenzeni izilungiso kumalungiseleo athile ukuze kuboniswe ukuweliselwa koxanduva lwamagunya olawulo oluphezulu lukaGunyaziwe wezoTywala weNtshona Koloni nolawulo loMthetho woTywala weNtshona Koloni, 2008, kwakunye nemigaqo eyenziwe phantsi kwalo mthetho.

3. ISIQULATHO SOMTHETHO OYILWAYO

Iinjongo zamagatya ohlukeneyo zidweliswe apha ngezantsi.

- 3.1 **Isolotya 1** lisusa igama lifake elinye kwingcaciso “iSebe” nakwingcaciso “uMphathiswa” ze licime ingcaciso ngegama elithi “ikomiti esisigxina”.
- 3.2 **Isolotya 2** lisusa igama lifake elinye kwibinzana “ikomiti esisigxina” ibe libinzana “ikomiti esisigxina efanelekileyo” naphi na apho avela khona kuMthetho woTywala weNtshona Koloni, 2008.
- 3.3 **Isolotya 3** lenza isilungiso esivele ngenxa yokususwa kwegama kufakwe elinye kwingcaciso yegama “uMphathiswa”.
- 3.4 **Isolotya 4** lenza isilungiso esivele ngenxa yokususwa kwegama kufakwe elinye kwingcaciso yegama elithi “uMphathiswa”.
- 3.5 **Isolotya 5** lenza amalungiselelo okunika uMthetho isihloko esifutshane.

4. AMAGUNYA OKUWISA UMTHETHO

UMphathiswa wePhondo ojongene nokhuseleko loluntu wanelisekile ukuba izibonelelo zoMthetho oYilwayo ziwela kumagunya angokwasemthethweni ePhondo.

5. UTHETHWANO

ISEBE leNkulumbuso
ISEBE lezoPhuhliso loQoqosho noKhenketho
ISEBE loKhuseleko loLuntu
ISEBE lezeMpilo
ISEBE looRhulumente boMmandla
ISEBE lezoPhuhliso loLuntu
UGunyaziwe wezoTywala weNtshona Koloni
INKONZO yeSipolisa yoMzantsi Afrika

UMbutho wooRhulumente boMmandla woMzantsi Afrika olilungu kwiNkundla
yeeLayisenisi zoTywala
UNondyebo wePhondo.

6. UKUCHAPHAZELAKA KWEZEMALI

Akukho nto ichaphazela ezemali kuba lonke uhlahlo-mali luweliselwe kwisebe
elithwaliswe olu xanduva.

7. UKUCHAPHAZELEKA KWABASEBENZI

Abasebenzi abachaphazelekayo kwisebe ebelikade linolu xanduva (iSebe
lezoPhuhliso loQoqosho noKhenketho) baweliselwe kwisebe elithwaliswe olu
xanduva (iSebe lezoKhuseleko loLuntu).

