

2001 ANNUAL REPORT

Report in terms of section 18 of the **Liquor Act, 1989** (Act No 27 of 1989), on the activities of the Liquor Board of the Western Cape during the period:

1 January 2001 to 31 December 2001

Report in terms of the provisions of the **Public Finance Management Act, 1999** (Act No 1 of 1999) on the activities of the Liquor Board of the Western Cape during the period:

1 March 2001 to 30 April 2002

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1. INTRODUCTION

In terms of section 18 of the Liquor Act, 1989 (Act No 27 of 1989) (the Act), the Member of the Executive Council shall as soon as possible after 1 January in each year lodge a report on the Liquor Board's activities during the preceding year, through the agency of the Premier, with the national Minister of Trade and Industry. This report relates to the activities of the Liquor Board of the Western Cape and the Sub-Directorate: Business Licensing, in the Department of Economic Affairs, Agriculture and Tourism, who acts as secretariat to the Board for the period 1 January 2001 to 31 December 2001.

The report further functions as a report to the Western Cape Province's Standing Committee on Public Accounts on the activities of the Western Cape Liquor Board as a public entity in terms of the provisions of the Public Finance Management Act, No 1 of 1999 for the period 1 April 2001 to 31 March 2002.

2. THE LIQUOR BOARD

2.1 Composition of the Liquor Board

Section 7 of the Liquor Act provides for the appointment by the Member of the Executive Council in a province of the provincial Liquor Board. The composition of the Liquor Board of the Western Cape was not changed during the year 2001. The Board consists of:

Adv. C W Evertson	Chairperson appointed in terms of Section 7(1)(a)
Mr. H Wagener	Deputy Chairperson appointed in terms of Section 7(1)(a)
S/Supt. J van Lill	Member appointed by the Provincial

Commissioner of Police in terms of Section
7(1)(b)

Messrs. P Gordon

and E. Gobodo

Civil society members in terms of section

7(1)(c).

The Chairperson and Deputy Chairperson are officials in the Department of Economic Affairs, Agriculture and Tourism.

2 The Personnel of the Liquor Board

The staff of the Sub-Directorate: Business Licensing in the Department of Economic Affairs, Agriculture and Tourism are responsible for the administrative functions of the Liquor Board, as provided for in section 17 of the Liquor Act. Staff members process all applications in terms of the Act.

All the positions within the sub-directorate that were recreated by Cabinet approval during 2000 were filled in 2001 in accordance with the departmental staffing plan and the personnel prescripts. The staffing position on 31 December 2001 was as follows:

Deputy Director	Adv. C W Evertson
Assistant Director	Ms. M Ntamo
Senior Administrative Officer	Mr. E Muller
Chief Clerk (3 positions)	Ms. C Makweya, M Herman and B Louw
Chief Inspector	Ms A Du Toit
Control Inspectors (2 positions)	Messrs. J Louw and N Spencer
Receptionist/telephonist/clerk	Ms L Spannenberg

Mr Muller has been appointed by the Chairperson as secretary to the Board in terms of section 17(2) of the Act.

The creation of an inspectorate consisting of three staff members has enhanced the Liquor Board's ability to deal with complaints regarding licensed premises. The Inspectorate provides a liaison function with the successful system of designated police officers located at every police station in the Western Cape, operating under the control of S/Supt van Lill.

The Inspectorate is further responsible for awareness and education campaigns launched in conjunction with other role players to increase the number of liquor licence applications from unlicensed traders.

3. APPLICATIONS IN TERMS OF VARIOUS SECTIONS OF THE ACT

3.1 In terms of section 11 read with section 15 of the Act the Board may-

- refuse an application; or
- grant an application; or
- refer an application to the Board for a hearing of evidence and consideration.

Altogether 102 sittings of the Board were held, which consisted of 510 hours of sitting. 1563 applications were considered. A list of the applications attended to by the competent authority (the Board or the Chairperson) is annexed as an annexure 1.

3.2 The Chairperson is required by law to refer an application for a liquor licence to the Board for consideration at a public meeting if an objection has been lodged against the application. To this end, the Board held 18

meetings at various locations outside Cape Town, throughout the Western Cape. During such meetings verbal evidence and submissions were heard. Due to the public interest in applications where objections have been received, the Board held hearings in the magisterial district in which the proposed licensed premises would be located.

- 3.3 Within the ambit of the prescription of the Liquor Act, 1989, legal technical omissions and failures were condoned in those instances where the condonation did not prejudice the public interest, to assist with the development of small, medium and micro enterprises. The Board further considered in each application the interests of the public, the impact of the application on job creation and the existence or creation of possible monopolistic conditions.

4. APPLICATIONS FOR THE WITHDRAWAL OF LIQUOR LICENSES

5 hearings regarding the withdrawal or suspension of existing liquor licenses were held in terms of section 11(3)(c) of the Act. In 4 instances the licenses were withdrawn. In the other instances additional conditions were imposed on the license holder to ensure that the cause of the complaints were attended to. These were generally restaurants that were transgressing their license conditions and the provisions of the Liquor Act.

5. APPLICATIONS FOR REASONS FOR DECISION TAKEN

During the year under review the competent authority (the Board or the Chairperson) furnished comprehensive reasons in 24 matters for its decisions. Unless indicated below, none of these matters were proceeded with on review in the High Court.

6. LEGAL PROCEEDINGS

Legal proceedings were instituted against the Liquor Board in the period under review in four instances.

An application for the review of the refusal by the Liquor Board to grant a restaurant liquor licence to premises in Durbanville was not opposed and the licence was granted by the High Court of South Africa (Cape of Good Hope Provincial Division). The matter has subsequently been reported as *Bulk Six Deals CC v The Liquor Board of the Western Cape 2002(2) SA 99(C)*.

Three applications for the review of the Liquor Board's decision were filed of which two were withdrawn with cost tendered in our favour after the Chairperson filed opposing affidavits. In the unreported matter of *Pieter Ludovicus Maria Aertsh/a Lizards v Die Drankraad van die Wes-Kaap*, case number 1639/2002, a refusal by the Liquor Board to grant a licence in an instance where the South African Police Services conducted an operation and illegal narcotic substances were found on a premises in George, was successfully opposed by the Liquor Board, with a costs order being granted in favour of the Liquor Board by the Cape High Court.

7. FINANCIAL MATTERS RELATING TO THE PUBLIC FINANCE MANAGEMENT ACT AS IT RELATES TO THE SUBDIRECTORATE: BUSINESS LICENSING

Expenditure

Although the Liquor Board is listed as a public entity in Schedule 3 of the Public Finance Management Act, the functions and finances of the Liquor Board of the Western Cape was administered within the Department of

Economic Affairs, Agriculture and Tourism. The Liquor Board therefore did not have an identifiable separate budget for the period 1 April 2001 to 31 March 2002. The functions of the Liquor Board were funded through the Sub-programme: Business Regulation (responsibility: Business Licensing). It is important to note that while the administration of the Liquor Board is assigned to the Sub-Directorate: Business Licensing, the Sub-directorate is also responsible for other, unrelated tasks. The budget assigned to the responsibility is therefore not exclusively for its duties of administration of the Liquor Board.

The Department of Economic Affairs, Agriculture and Tourism reports on the said responsibility in the normal course of its reporting on the departmental budget for the year 2001.

Revenue

Revenue is generated through the issuing of liquor licences and the annual renewal fees. In terms of the provisions of the Liquor Act, the Receiver of Revenue shall be the collecting agent for the revenue raised through the administration of liquor licences. A list indicating the income received per licence category for the period 1 April 2001 to 31 March 2002 is annexed as annexure 2.

The income generated amounts to **R3309987,59**

The reconciliation of the receipts with the income received from the Head Office of the Receiver of Revenue remains problematic. It is foreseen that new provincial legislation on liquor licensing will address this issue.

8. GENERAL

For the Sub-Directorate: Business Licensing and the Liquor Board the year 2001 was a successful year and the building on a successful 2000.

The appointment of staff to fill the newly created inspectorate positions enabled the Liquor Board to address complaints relating to licensed

premises.

Lastly, appreciation is expressed to the following persons who contributed to the success of the administration of the Liquor Act in the Western Cape:

- The approximately 145 designated police officers of the South African Police Services in the Western Cape
- The staff members of the Sub-Directorate: Business Licensing within the provincial Department of Economic Affairs, Agriculture and Tourism
- Mr Daniel Hugo of the provincial Directorate: Information Technology for technical support with regards to the licensing system

SIGNED AT CAPETOWN ON 9 September 2002

HELGARD WAGENER
DIRECTOR: BUSINESS REGULATION

ADV. C. WEVERTSON
CHAIRPERSON: LIQUOR
BOARD OF THE
WESTERN CAPE