Rethink Your Drink

JANUARY 2026

HARMONISATION OF LIQUOR LAWS

POLICY BRIEF 1

Towards Coherence in South Africa's Liquor Legislation

Fragmentation across national, provincial, and municipal liquor laws continues to undermine effective regulation in South Africa. This policy brief traces the constitutional and legislative evolution of liquor regulation to explain why repeated commitments to a coherent national framework have failed to materialise. It highlights how jurisdictional complexity, delayed implementation, and the absence of a coordinating institution have weakened enforcement, and argues for institutional reform to restore coherence and ensure consistent public health and community safety outcomes.

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Executive Summary

This Policy Brief examines the constitutional, legislative, and policy milestones that define the current legislative framework for liquor legislation in South Africa, with a view to providing a foundation for evaluating pathways toward a more coherent and effective liquor regulation system.

Despite a longstanding policy commitment to harmonise liquor laws across national, provincial, and municipal levels, in accordance with national N&S, the current regulatory framework remains fragmented and inconsistent. The lack of alignment between the various liquor laws complicates enforcement and creates regulatory loopholes, which undermine the potential effectiveness of government interventions aimed at harm reduction.

Addressing these challenges requires a comprehensive, cooperative governance approach supported by strong institutional structures. A key proposal is made for an amendment to the Liquor Act, 2003, to allow the current National Liquor Policy Council to be replaced or supplemented with a multisectoral National Liquor Advisory Committee.

The Advisory Committee would include broad representation from all three spheres of government, civil society, and industry, ensuring that liquor policy and legislative development is informed by diverse perspectives and expertise, as proposed in the 1997 draft National Liquor Policy and the accompanying Liquor Bill 1998.

At a political level, it is proposed that oversight of the establishment and functions of the National Liquor Advisory Committee be provided by the Inter-Ministerial Committee (IMC) on Combating Substance Abuse, with consideration given to rotating the chair of the Advisory Committee among members of the IMC. Once established, the National Liquor Advisory Committee should give urgent and rigorous attention to:

- reviewing the policy and legislative framework to identify areas for improvement;
- strengthening national norms and standards based on latest evidence and best practice;
- facilitating collaboration to support policy and legislative alignment at all levels of government.

Intergovernmental agreements reached at, or facilitated by, the National Liquor Advisory Committee should be formalised using implementation protocols provided for in the Intergovernmental Relations Framework Act, 2005.

By implementing these recommendations, South Africa can develop a coherent regulatory framework that mitigates alcohol-related harms, supports responsible industry practices, and fosters equitable economic growth.

Introduction

South Africa faces challenges regulating the liquor industry to allow for a balance between economic, social, and public health considerations. Despite a longstanding policy commitment to harmonise liquor laws across national, provincial, and municipal levels, the current regulatory framework remains fragmented and inconsistent. The lack of alignment between the various liquor laws complicates enforcement and creates regulatory loopholes, limiting the effectiveness of government interventions aimed at harm reduction.

The Constitutional framework allows for legislative variation across provinces and municipalities, offering opportunities for localised regulatory innovation and responsiveness to community needs. However, without proper coordination, this has resulted in disjointed laws, confusion over legislative applicability, and regulatory disparities that undermine the goals of creating a coherent national approach to liquor regulation and providing everyone the equal protection of the law.

This Policy Brief highlights the urgent need for decisive action to harmonise liquor legislation while maintaining the flexibility required to accommodate provincial and local differences. It critically examines past legislative and policy developments, identifies key obstacles to harmonisation, and outlines a recommended approach to strengthening intergovernmental coordination. It advocates for the replacement of the National Liquor Policy Council with a multisectoral National Liquor Advisory Committee, ensuring broad representation from all three spheres of government, civil society, and industry.

By fostering evidence-based policy development, stakeholder engagement, and intergovernmental cooperation, South Africa can establish a sustainable, coherent liquor regulatory framework that effectively mitigates alcohol-related harms while supporting economic growth and responsible industry practices.

Constitutional, Legislative and Policy Context

Understanding the historical evolution of liquor regulation in South Africa is essential to contextualising the current legislative framework, the need for harmonisation, and the feasibility of future reforms. The regulatory landscape has been shaped by a complex interplay of pre-constitutional laws, constitutional mandates, and evolving policy objectives.

This section examines the constitutional, legislative, and policy milestones that have defined the current regulatory framework, providing a foundation for evaluating pathways toward a more coherent and effective liquor regulation system.

Pre-Constitution

When the African National Congress (ANC) came into power in South Africa in 1994, it inherited various pieces of legislation governing the liquor industry.

The production, composition and quality of liquor products was governed by the Liquor Products Act, 1989,[1] administered by the Minister of Agriculture.

Regulation of the sale and distribution of liquor was governed by the Liquor Act, 1989,[2] together with the liquor laws of the various black “homelands” established under Apartheid.

The Liquor Act, 1989, originally fell under the administration of the Minister of Economic Affairs and Technology. It provided for a Liquor Board to serve as the primary regulatory body overseeing liquor sales and distribution. The Board's functions included considering applications for various types of liquor licenses, ensuring compliance with licensing conditions, and making recommendations to the Minister regarding liquor policy. The Act contained detailed provisions for the regulation of different categories of licences, compliance, enforcement, and so on.

In 1995 the new South African government passed the Liquor Amendment Act, 1995.[3] This Act repealed the various homeland liquor laws and extended the application of the Liquor Act, 1989, to the whole country. Significantly the Liquor Amendment Act effectively assigned administration of the Liquor Act, 1989, to provincial administrations, replacing the central Liquor Board with separate Liquor Boards for each province, and assigning functions from the national Minister to provincial Members of Executive Councils (MECs).

Constitution of the Republic of South Africa

In 1996, the final Constitution of the Republic of South Africa[4] (the Constitution) was passed by Parliament. It provided for government to be constituted as national, provincial and local spheres of government which are distinctive, inter-dependent and interrelated.[a]

The Constitution provides a framework for the division of functions and powers between the spheres of government, which are subject to principles for cooperative government and inter-governmental relations.[b]

In as far as it is relevant to legislation on matters relating to the liquor trade, in broad terms the Constitutional framework provides for the following (see Figure **1**):

a) Parliament has plenary authority to legislate on any matter, subject to certain exceptions provided for in the Constitution;[c]

b) Provincial legislatures have concurrent competence with Parliament to legislate on matters falling within Schedule 4 – including "trade";[d]

c) In the event of conflict between national and provincial legislation relating to a Schedule 4 matter, national legislation prevails in circumstances listed in section 146;

d) Provincial legislatures have the competence to legislate on matters listed in Schedule 5 (both Parts A and B) – including "liquor licences" in Part A, and "control of undertakings that sell liquor to the public" in Part B;[e]

[a] Section 40(1)

[b] Section 41

[c] Section 44(1)

[d] Section 104(1) read with Schedule 4

[e] Section 104(1) read with Schedule 5

e) Parliament does not have the power to legislate on matters listed in Schedule 5,[f] except in limited circumstances listed in section 44(2);[g]

f) Municipalities can make and administer by-laws regarding matters listed in Parts B of Schedules 4 and 5 – including "control of undertakings that sell liquor to the public" in Schedule 5B;[h] and

g) Subject to the proviso that national or a provincial government may not compromise or impede a municipality's ability or right to exercise its powers or perform its functions, a municipal by-law that conflicts with national or provincial legislation is invalid.[i]

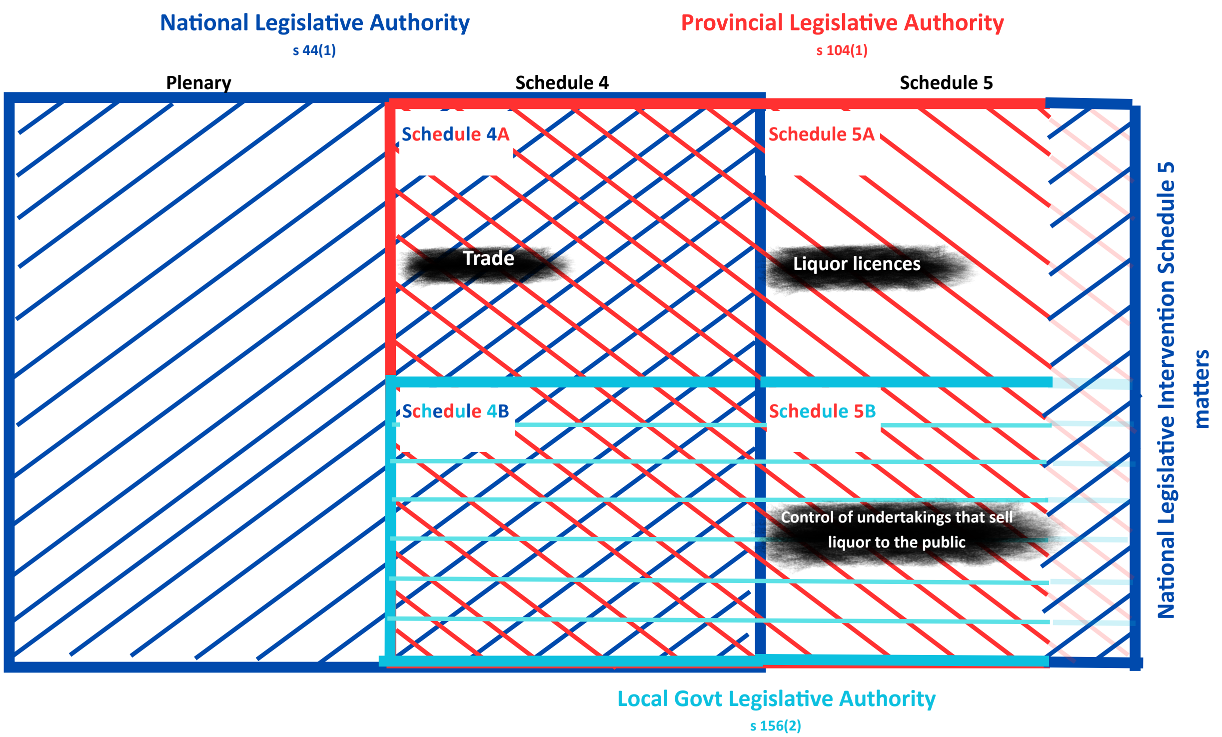

Figure 1: Constitutional framework for legislative competence related to liquor

[f] Section 44(1)

[g] Section 44(2): "Parliament may intervene, by passing legislation in accordance with section 76 (1), with regard to a matter falling within a functional area listed in Schedule 5, when it is necessary— (*a*) to maintain national security; (*b*) to maintain economic unity; (*c*) to maintain essential national standards; (*d*) to establish minimum standards required for the rendering of services; or (*e*) to prevent unreasonable action taken by a province which is prejudicial to the interests of another province or to the country as a whole."

[h] Section 156(1) and (2), read with Schedules 4B and 5B

[i] Section 156(3) read with section 151(4)

Objects of Liquor Bill, 1998

"The objects of this Act are to maintain economic unity and essential national standards in the liquor trade and industry, to encourage and support the liquor industry and to manage and reduce the socio-economic and other costs of excessive alcohol consumption by –

a) establishing a national and uniform administrative and regulatory framework within which the liquor industry can conduct its business;

b) creating an environment in which –
   i) the entry of new participants into the liquor industry is facilitated;
   ii) appropriate steps are taken against those selling liquor outside the administrative and regulatory framework established in terms of this Act;
   iii) those involved in the liquor industry may attain and maintain adequate standards of service delivery;
   iv) community considerations on the registration of retail premises are taken into account; and
   v) the particular realities confronting the liquor industry can be addressed; and

c) promoting a spirit of co-operation and shared responsibility within all

Liquor Policy, 1997 and Liquor Bill, 1998

In 1997 the Department of Trade and Industry gazetted a new Liquor Policy and draft Bill for public comment.[5] The proposed new Liquor Policy and draft Bill were intended to restructure the liquor industry and give priority to new entrants excluded from this sector of the economy under Apartheid and to "better reflect all costs associated with liquor, including alcohol-related problems in health and other fields."

The policy outlined an integrated approach to liquor industry regulation in order to counteract the negative health, social and economic effects of alcohol. This included the creation of a National Liquor Advisory Committee with broad multisectoral representation from government, communities and civil society, with a similar multisectoral structure at provincial, local and community levels.

The consultation process culminated in the tabling and passing of the Liquor Bill, 1998,[6] which was intended to replace the Liquor Act, 1989.

The objectives of the Bill (see sidebar) included:

- The establishment of a uniform national administrative and regulatory framework for the liquor industry.
- The establishment of a National Liquor Authority to oversee the registration and operation of institutions involved in the manufacture, wholesale distribution and sale of liquor.
- That the provincial legislature of each province shall, subject to the provisions of the Bill, pass legislation for its province establishing a provincial liquor authority and providing for the composition and administration of that authority.

The functions of provincial liquor authorities included the adjudication and oversight of registration applications for the retail sale of liquor.

The Bill detailed processes for applications for registration. It also provided for terms and conditions applicable to the sale of liquor. The Bill further provided for powers of enforcement by inspectors appointed at national or provincial level.

While the Bill permitted registered persons to sell liquor on any day of the week, it provided for the determination of permissible trading hours to be made by the relevant municipality.

Of particular significance was the provision in the Bill for the establishment of a National Liquor Advisory Committee.[j] The functions of the Advisory Committee were to advise the national Minister and provincial MECs on matters including:

- Economic empowerment;
- Consumption of alcohol amongst the youth;
- The impact of excessive alcohol consumption on public health, family, and social life.

The Advisory Committee was also intended to:

[j] Sections 4 to 8

- Monitor and evaluate trends and developments in the liquor industry and promote research in that regard;
- Design and monitor the implementation of educational and social responsibility programmes on the potentially harmful effects of alcohol;
- Facilitate the resolution of inter-governmental disputes.

In recognition of the impact of liquor regulation across multiple sectors of society, the intended composition of the National Liquor Advisory Committee was broad and multi-sectoral, and included representatives of the liquor industry, civil society and government. The members were to be appointed by the responsible national Minister, after consultation with all relevant Ministers and MECs within the functional areas represented on the committee.

The Liquor Bill, 1998, was passed by Parliament on the 2nd November 1998. When the Bill was sent to the President for assent, he referred it back to the National Assembly for reconsideration because he had reservations about its constitutionality. The National Assembly returned it to the President after declining to effect changes. On 8 March 1999, the President referred the Bill to the Constitutional Court for a decision on its constitutionality.

The ensuing judgment gave rise to a seismic and permanent shift in the liquor policy and legislative landscape of South Africa.

Liquor Bill Case, 1999

The Liquor Bill case[7] concerned the interpretation of the Constitution in relation to the division of powers and functions between national and provincial government related to liquor regulation, as contained in the Liquor Bill, 1998.

In its submissions, the Western Cape Government (WCG) launched two main attacks on the constitutionality of the Liquor Bill, 1998 – first, against the exclusion of provincial governments from any role in the licensing of liquor manufacturers and distributors; and secondly, against the extent to which the Bill permits national intervention in the provinces' powers to regulate retail licensing.[k]

The WCG argued that it was not necessary to have national legislation on liquor licences (a Schedule 5 function) for any of the purposes set out in section 44(2) of the Constitution – see footnote (g) above.

The Minister of Trade and Industry, on the other hand, argued that it was necessary for Parliament to legislate on these matters in the light of the requirements of section 44(2).[l]

In relation to manufacturing and the wholesale distribution of liquor, the Court was satisfied that national legislative intervention was indeed justified in terms of section 44(2) by the need to maintain economic unity. The court found that manufacturing and wholesale trade in liquor have a national and international dimension with little, if any, liquor production and wholesale distribution directed only to an intra-provincial market. The most effective way to control these trades is through a single national regulatory system.[m]

On the other hand, the court found that where provinces are afforded exclusive powers in terms of Schedule 5 these should be interpreted as applying primarily to matters which may appropriately be regulated intra-provincially.[n] The court further found that "it is obvious that the retail sale of liquor will, except for a probably negligible minority of sales that are effected across provincial borders, occur solely within the province".[o]

[k] Par 36

[l] Par 4

[m] Par 72, 73 & 78

[n] Par 52

[o] Par 71

Similar findings were made in relation to micro-manufacturers of liquor whose businesses may be essentially provincial in nature.[p] As a side note, these determinations were clearly made at a time when the emergence and massive growth of eCommerce in liquor could not reasonably have been foreseen.[q]

The Court therefore found no justification for the Liquor Bill's intended regulation of liquor licensing in so far as it pertained to retail sales of liquor. The Liquor Bill was therefore declared to be unconstitutional.

Considering the judgment of the Constitutional Court in the Liquor Bill case, Figure 2 broadly reflects the current understanding of the Constitutional division of functions and powers between spheres of government in so far as it relates to liquor regulation.

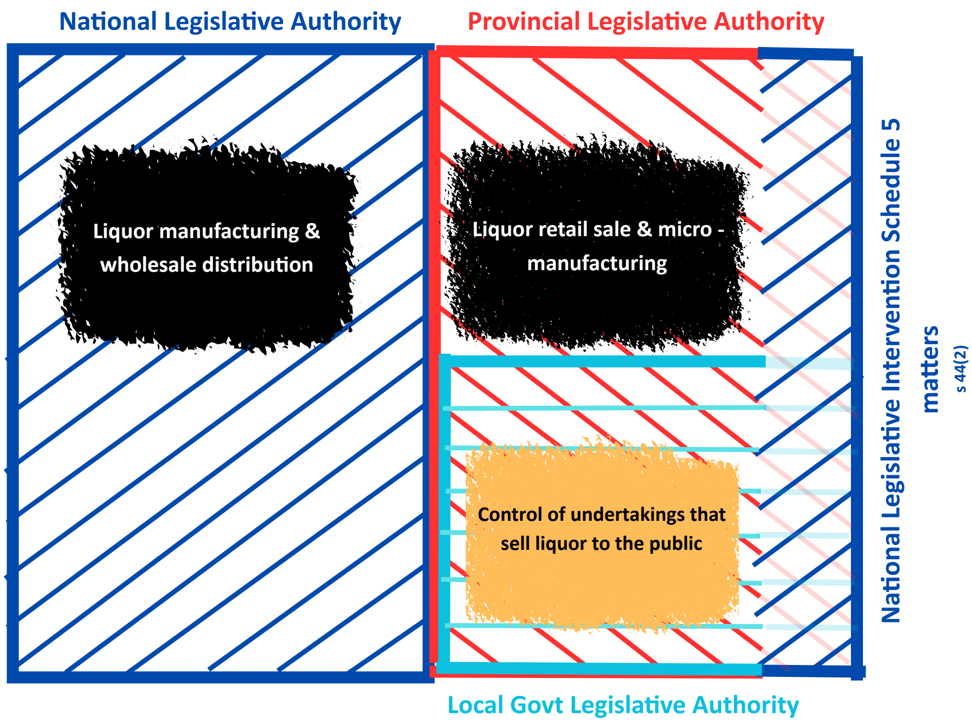

Figure 2: Legislative competence in relation to liquor trade post Liquor Bill case, 1999

[p] Par 84

[q] The implications of this are discussed in detail in **Policy Brief 3**.

Functions of NLPC

"The functions of the Council are –

a) to consult on –
   - i) national norms and standards for the liquor industry;
   - ii) national policy in respect of the liquor industry;
   - iii) liquor legislation or regulations, including the promotion of uniform national and provincial legislation in respect of liquor norms and standards;
   - iv) any matter concerning the liquor industry within the national and provincial spheres of government;
   - v) any matter concerning the management or monitoring of the liquor industry in the Republic, or licensing in any province;
   - vi) any other matter that may be referred to it by a member of the Council;

b) to promote and facilitate intergovernmental relations in respect of the liquor industry; and

c) to facilitate the settlement of intergovernmental disputes

Liquor Act, No. 59 of 2003

The ensuing Liquor Act passed by Parliament in 2003,[8] focused in the main on registration and regulation of manufacturers and wholesale distributors of liquor. The Act was stripped of the former Liquor Bill's provisions around provincial liquor authorities, registration of liquor retailers, and most terms and conditions relating to the retail sale of liquor.

The Act did, however, retain the prohibition on supply of liquor to persons under the age of 18, and added some general restrictions on advertising, including prohibiting advertising targeted at minors. It also included in its objectives the reduction of the socio-economic and other costs of alcohol abuse by, amongst other things, "setting essential national norms and standards in the liquor industry;" and "setting essential national norms and standards for the regulation of the retail sale and micro-manufacture of liquor".[r]

Of particular significance is the omission from the Act of the provisions of the Liquor Bill, 1998, regarding a multisectoral National Liquor Advisory Committee (described in detail above).

[r] Section 2

In its place, the Act makes provision for a National Liquor Policy Council (NLPC), comprising:

a) the Minister, who chairs the NLPC;
b) the MEC responsible for liquor licensing in each province;
c) the Director-General or other employee of the department responsible for liquor matters in the national sphere of government (Department of Trade, Industry and Competition);
d) for each province, one person designated in terms of applicable provincial legislation or by the relevant MEC.[s]

The functions of the NLPC are set out in the above sidebar. For purposes of the current discussion, it is especially relevant to note that its functions include consulting on:

- National N&S for the liquor industry;
- National policy in respect of the liquor industry;
- Liquor legislation or regulations, including the promotion of uniform national and provincial legislation in respect of liquor N&S.

The Liquor Act, 2003, repealed the Liquor Act, 1989. However transitional provisions provided for the Liquor Act, 1989,[t] to remain in force in each province insofar as it applies to the micro-manufacture and retail sale of liquor despite the repeal.

This would continue until such time as the province had enacted its own legislation meeting certain criteria, including:

- Being consistent with the objects and purposes of the Liquor Act, 2003;
- Requiring every person engaged in the micro-manufacture or retail sale of liquor to be licensed;
- To provide for a reasonable licensing procedure, taking into account considerations of simplicity, transparency and cost-effectiveness;

[s] Sections 38 and 39

[t] Item 2 of Schedule 1

- Providing for maintenance of a registry of persons required to be licensed, and the reporting of that information to the Minister; and
- Establishing enforcement mechanisms to ensure proper monitoring and compliance.

Once such legislation had been enacted, the transitional provisions contemplated a process of engagement between the provincial government and the national Minister, culminating in the Minister declaring a specific date for the Liquor Act 1989 to cease to operate in the province if she or he is satisfied that the provincial legislation meets the aforementioned criteria.

Over succeeding years, provincial legislatures enacted their own liquor legislation, resulting in the current provincial legislative status depicted in Figure **3**.

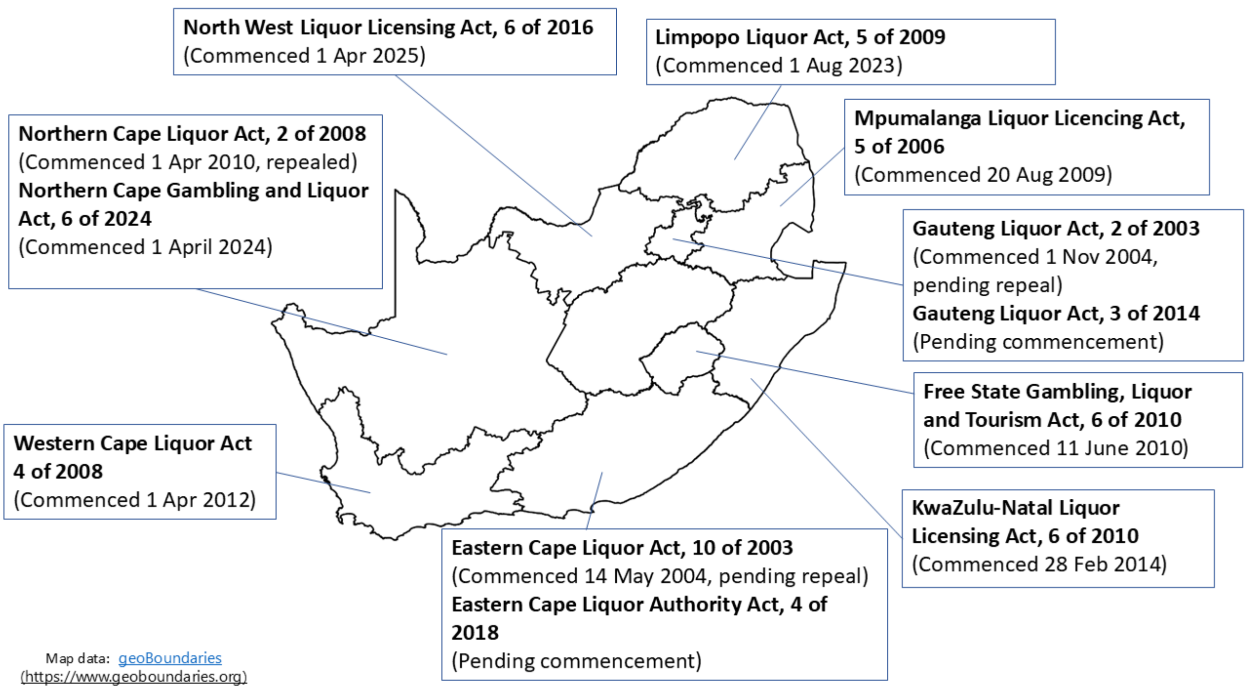

Figure 3: Provincial liquor Acts as at September 2025

- **2013 DTI impact assessment**

In 2013, the DTI published a detailed assessment of the impact of the Liquor Act, 2003 (the 2013 DTI report).[9] It lamented the fact that the country's fragmented national and provincial legislative framework, which had emerged in response to the Constitutional

Court decision in the Liquor Bill, 1998, case, had undermined effective regulation of the liquor industry:

> "Jurisdictional complexity at national and provincial level, and the sometimes stark differences in provincial regulatory systems, makes effective monitoring and enforcement of liquor regulation difficult. This is compounded by a lack of effective collaboration between different authorities, again at both national and provincial levels. The Constitutional requirement for liquor retailing to be regulated at provincial level has both fragmented and delayed the implementation of regulatory reform in the sector."

The report indicated that the omission of key policy proposals in the final Liquor Act, 2003, including omission of the proposed multisectoral National Liquor Advisory Committee, had an important bearing on the outcomes in the liquor industry, including in terms of anti-abuse initiatives implemented by the liquor industry and government.

The report notes that the National Liquor Policy Council, which was established instead, "consists only of representation from the DTI and provincial MECs, with no representation from the range of other government stakeholders responsible for administering various aspects of legislation and policy that have a direct impact on the liquor sector and its outcomes."[u]

It noted that a "fragmented and non-transparent policy development process is unlikely to consistently yield good policy proposals."[v] It also notes that some variation in regulatory approach is inevitable and even desirable in certain circumstances:

> "As the regulation of liquor retail is retained as a provincial competency, some variation across provincial and national regulatory schemes is inevitable. However, while such variation is desirable if it allows for innovative regulatory approaches, or allows specific provincial circumstances to be addressed, it does tend to

[u] Page 13

[v] Page 13 & 14

complicate the enforcement environment, and thus is not desirable in and of itself. In other words, in an ideal world there would be considerable similarities between the various provincial legislations, and such disparities as occurred would be based on a clearly articulated policy rationale."[w]

The report highlighted specific concerns around the lack of standardisation of key definitions of liquor, beer and traditional/sorghum beer and the associated risks of regulatory loopholes as discussed below.

- **National Norms and Standards, 2015**

The urgent need for harmonisation of laws, as identified in the 2013 DTI report, provided impetus for the development of national liquor N&S as contemplated in the Liquor Act, 2003. The need for national N&S that standardise regulation of the industry and talk to "problematic" areas, including trading hours, was initiated by the National Liquor Policy Council (NLPC) in May 2012.[10] Draft N&S were consulted on in different provinces at organised public workshops. They were gazetted for further public comment in 2013[11] and again in 2014[12] prior to finalisation.

The final National Liquor Norms and Standards were gazetted on 13 February 2015, under cover of a notice signed by then Minister of Trade and Industry, Dr Rob Davies.[13] They detail minimum standards relating to trading hours, age verification, licensing conditions, structural requirements for ablution facilities, and various safety and evacuation measures.

Their purpose is stated to be:

- To ensure that liquor regulation and practices in the Republic are harmonised;
- To facilitate effective and uniform enforcement of liquor laws by various enforcement authorities;

[w] Page 82

- To ensure consistency in the application of liquor laws throughout the Republic; and
- To reduce the socio-economic and other costs of alcohol abuse by reducing access to and the availability of liquor.[x]

In relation to the process for harmonisation, they state:

> "To the extent that the Norms and Standards relate to matters that the current legislative framework does not allow, the members of the NLPC will proceed to propose amendment to the respective legislation to achieve consistency in respect of the application of the Norms and Standards."[y]

Furthermore,

> "the Norms and Standards will be incorporated in the National Liquor Act, and where provincial regulation is not aligned to the Norms and Standards such that the two are contradictory, the Norms and Standards will prevail"[z],

a point reiterated in the accompanying notice in the Gazette signed by the Minister.

Under a clause which reads "These Norms and Standards were adopted by the National Liquor Policy on 5 September 2014 for implementation throughout the Republic," the gazetted version of the N&S bears the signatures of the relevant MECs responsible for liquor matters in each of the nine provinces, although the signature of the Western Cape MEC was annotated with a caveat.[aa]

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[x] Par 3.1

[y] Par 1.3

[z] Par 3.5

[aa] Then MEC Alan Winde of the Western Cape, who annotated his signature with the following statement: "NOTED BUT WE DO HAVE PROVINCIAL LEGISLATION THAT IS WITHIN OUR LEGISLATIVE COMPETENCY. I ALSO AM NOT IN FAVOUR OF THE EXTRA RED TAPE BURDEN ON LEGITIMATE BUSINESSES."

- **National Liquor Policy, 2016**

On 30 September 2016, the Minister of Trade and Industry gazetted South Africa's final Liquor Policy Paper.[14] It highlighted the need for the provincial repeal of the Liquor Act 1989 in line with the process set out in the Liquor Act, 2003, as discussed below. It again highlighted the importance of the harmonisation of laws, ensuring a standardised approach to regulation and enforcement:

> "Harmonisation of the provincial liquor legislations with the Act and subsequent repeal of the Liquor Act, 1989 (1989 Act) should be encouraged and monitored for timely implementation. The reviews and reforms of national and provincial policies, legislation and norms and standards should be processed after consultation at the National Liquor Policy Council (Council) for harmonisation to be effectively achieved in the manner envisaged in the Act. This will improve enforcement and monitoring of compliance. It will also strengthen national and provincial strategies to eradicate liquor abuse and reduce the harmful effects of liquor.
>
> To standardise regulatory enforcement and ensure collaboration within the three spheres of government, national, provincial and local government responsible for liquor regulation must work together as seamlessly as possible to coordinate policy response, and share information to ensure the success of regulatory enforcement activities."[bb]

The policy emphasised the importance of implementation of the N&S, noting for example that the "set trading hours within the norms and standards should be integrated in national, provincial and municipal legislation".

Has Harmonisation Been Achieved?

In evaluating whether the policy objective of harmonisation has been achieved, we consider the following three indicators which arise from consideration of the historical and policy context described above:

[bb] Para 1.6.16

- Repeal of the Liquor Act,1989, in line with the requirements of the Liquor Act, 2003.
- Standardisation of definitions of liquor, beer and traditional/sorghum beer.
- Implementation of the N&S, with particular reference to trading hours.

- **Repeal of the Liquor Act, 1989**

As discussed above, the Liquor Act, 2003, made provision for the repeal of the Liquor Act, 1989, to become effective on a specific date in each province, when gazetted by the Minister of Trade and Industry in consultation with their relevant provincial counterpart, after certification by the Minister that certain criteria had been met.

This statutory procedure was observed by Northern Cape, Western Cape and KwaZulu-Natal. In respect of each of these provinces, notices were gazetted in which the Minister of Trade and Industry, in consultation with the relevant provincial MEC, determined a specific date on which the Liquor Act, 1989, ceased to operate and the relevant provincial liquor Act came into operation.[15-17]

However, other provinces failed to follow this procedure despite the peremptory nature of the statutory provisions in the Liquor Act, 2003. Instead, the provincial liquor laws of the other six provinces include transitional provisions related to the continuation and/or phasing out of application of the Liquor Act, 1989, to existing licences, without specifying a particular date for the complete cessation of application of the 1989 Act. The National Liquor Policy, 2016,[14] noted the implications of this approach with concern:

> "To date, only the Western Cape, KwaZulu-Natal and Northern Cape provinces have promulgated their provincial legislation in line with the [Liquor Act, 2003]. The 1989 Act remains in force in the remaining six provinces. In some provinces the 1989 Act co-exists with other provincial legislation and this co-existence causes a lot of confusion and is not helping towards harmonisation in the common regulation and strategy of liquor."[cc]

[cc] Par 2.6

The national N&S, gazetted the preceding year, had given a specific deadline of the end of the 2016/17 financial year for the repeal of the Liquor Act, 1989, in all provinces:

> "The Liquor Act, 1989, must be repealed in all provinces by the end of the financial year 2016-2017 as it creates incoherence, fragmentation and limits the ability to enforce liquor laws in South Africa."[dd]

As illustrated in Annexure **A** below, the confusing transition from the 1989 Act has been exacerbated by inordinately long delays in certain provinces between the time that provincial liquor laws were passed and the commencement of the laws.

An example is the Limpopo Liquor Act,[18] which was passed in 2009, assented to by the Premier in 2015, and finally commenced in 2023 – fourteen years after passage. Transitional provisions in the Limpopo Act allowed persons registered under the Liquor Act, 1989, to continue trading under those registrations for a further period to be determined in the provincial gazette.

The North West Liquor Licensing Act[19] passed in 2016 and finally commenced on 1 April 2025, included a transitional provision to the effect that "any application for a liquor licence made before the commencement of this Act in terms of the repealed Liquor Act, 1989 (Act No. 27 of 1989), and the Regulations made in terms of that Act, must be dispensed of and finalised as if this Act has not come into operation."

As a result, the Liquor Act, 1989, while finally repealed in the last of the provinces in 2025, continues to govern some provincial licensing processes.

Inordinate delays in giving effect to legislative enactments characterise other provincial reform processes too. Gauteng[20] and the Eastern Cape[21] have both passed legislation which provides for repeal of their existing provincial liquor Acts which had preceded the

[dd] Par 4.1.4

National N&S, but these laws have yet to take effect some eleven and seven years later, respectively.

- **Standardisation of key definitions**

The 2013 DTI report highlighted a fundamental problem area of inconsistency among provincial laws and between provincial laws and national legislation, namely multiple different definitions of liquor, beer and traditional/sorghum beer – which are set out in a table on page 17 of that report.

The need for standardisation of these definitions was emphasised because "standardisation of the way in which alcohol is defined will ensure easier regulatory oversight and reduce any potential loopholes for the production of illicit and dangerous liquor."[ee]

In March 2025, some twelve years later, not a single province's law's current definitions of liquor, beer and traditional / sorghum beer fully align to the current respective definitions in the Liquor Act, 2003, or the Liquor Products Act, 1989:

- In KwaZulu-Natal, Limpopo, Mpumalanga and the Northern Cape, no amendments to inconsistent definitions have been made since the report of 2013.

- In Gauteng and the Eastern Cape legislation passed but not yet commenced[20,21] endeavored to align the relevant definitions with national legislation, but in the interim those amendments have been superseded by definitional amendments to national legislation in the Liquor Products Amendment Act 8 of 2021.[22]

- In the Free State, the inconsistent definitions of liquor and beer remained unchanged. Furthermore, a new definition of Traditional African beer was described in 2024 in the Free State Gambling, Liquor and Tourism Amendment Act[23] but this definition does not align with the corresponding definition in the Liquor Products Act, 1989.

[ee] Page 83

- In the Western Cape, draft legislation was gazetted[24] which seeks to align the definition of "liquor" with definitional changes made by the Liquor Products Amendment Act, 2021,[22] but these amendments have yet to be passed by the provincial legislature.

- **Implementation of National N&S**

As discussed above, the National N&S were adopted in 2014 for implementation throughout South Africa. All provincial MECs represented on the NLPC committed themselves to harmonising their laws accordingly (subject to a caveat by the Western Cape MEC).

We reviewed implementation of the N&S, with particular reference to the minimum standards for trading hours – as these directly form part of the availability restrictions recommended by the World Health Organisation as a "best buy" to reduce alcohol-related harms. This review, detailed in **Policy Brief 4**, shows that the N&S have largely been ignored, and in cases where attempts have been made toward harmonisation, some are in the process of being reversed.

Conclusion

South Africa's Constitutional framework allows for variation in liquor laws across provinces and municipalities with the potential to encourage regulatory responsiveness to the needs of communities, as well as regulatory innovation generating best practice legislative models that can be shared – thereby improving regulatory outcomes nationally.

However, while variation in liquor laws can be beneficial, this requires coordination, responsiveness, and evidence-based regulation to prevent loopholes and inconsistencies that undermine national public health and safety objectives.

An understanding of this appears to have motivated clear policy commitments to a clean and timely transition from the application of the Liquor Act, 1989, to a harmonised framework of national, provincial and local legislation consistent with the N&S.

The above analysis suggests that this harmonisation project has failed in the most fundamental respects. Transition from the Liquor Act, 1989, was in many provinces anything but clean and timely. In the North West Province the Liquor Act, 1989, is still the primary legislation governing the retail sale of liquor.

National N&S, adopted with signed provincial commitments for implementation throughout South Africa, have largely been ignored, to the detriment of public health and safety.

Protracted delays in the commencement of legislative reforms enacted by provincial legislatures, in some cases exceeding a decade, result in legislative obsolescence and undermine any potential for regulatory responsiveness.

Some of the most fundamental definitional aspects of the legislative framework remain inconsistent among provinces, and between national and provincial legislative instruments.

The resultant fragmented legal framework significantly undermines legislative coherence and effectiveness in addressing alcohol-related harms across South Africa.

Variability in the effectiveness of legal protections against the harms of alcohol also undermines the rights of everyone in the country to equal protection and benefit of the law, as provided for in section 9(1) of the Constitution.

Recommendations

Urgent and decisive action is needed to resolve the fragmented state of liquor legislation in South Africa, within the framework of cooperative governance provided by the Constitution. This action must not only correct existing inconsistencies and deficiencies across all spheres of government but also establish a sustainable, harmonised regulatory framework.

Such a framework should remain adaptable to community needs, evolving policy and legislation, best practices from both local and international jurisdictions, and emerging evidence on alcohol-related harms and mitigation strategies.

The National Liquor Policy Council, established under the Liquor Act, 2003, is not the appropriate institutional body to guide and coordinate the ongoing development of a harmonised regulatory framework across all spheres of government. It has failed to implement policy commitments effectively.

The NLPC lacks the necessary breadth of representation to ensure inclusive, ongoing input from key stakeholders, including government at all levels, civil society, industry, and local communities, essential for informed policy and legislative development.

To effectively drive the harmonisation and ongoing development of a coherent liquor regulatory framework, the NLPC should be replaced or supplemented with a multisectoral National Liquor Advisory Committee along the lines of the advisory committee envisaged in the draft Liquor Policy, 1997 and the Liquor Bill, 1998.

The proposed National Liquor Advisory Committee should be established as a structure to promote and facilitate inter-governmental relations, as contemplated in section 41(2)(a) of the Constitution. It should include broad representation from all three spheres of government, civil society, and industry, ensuring that liquor policy and legislative development is informed by diverse perspectives and expertise.

Unlike the current NLPC, which has struggled to implement policy commitments and lacks sufficient inclusivity, a well-structured advisory committee would provide a platform for continuous engagement, evidence-based decision-making, and policy alignment across jurisdictions.

In Annexure B we suggest possible composition and functions of the proposed National Liquor Advisory Committee, taking into consideration the composition and functions of both the NLPC and those of the National Liquor Advisory Committee proposed in the Liquor Bill, 1998.

It is recommended that these changes are effected through an amendment to Chapter 6 of the Liquor Act, 2003, and should be prioritised to form part of the next version of the Liquor Amendment Bill to be introduced to Parliament.

At a political level, it is proposed that oversight of the establishment and functioning of the National Liquor Advisory Committee is provided by the Inter-Ministerial Committee (IMC) on Combating Substance Abuse, as described in the Appendix to the Prevention of and Treatment for Substance Use Disorders Policy of the Department of Social Development.[25]

Consideration should be given to provision for a rotating chair of the National Liquor Advisory Committee from amongst Ministers who form part of the IMC.

Once established, the National Liquor Advisory Committee should give urgent and rigorous attention to:

- Reviewing the policy and legislative framework to identify areas for improvement;
- Strengthening national N&S based on the latest evidence and best practice;
- Facilitating collaboration to support policy and legislative alignment at all levels of government.

Intergovernmental agreements reached at, or facilitated by, the National Liquor Advisory Committee should be formalised by way of implementation protocols as provided for in the Intergovernmental Relations Framework Act, 2005.[26]

These proposals, once implemented, should help to prevent regulatory fragmentation, close policy loopholes, and promote best practices drawn from both local and international experience. This inclusive, consultative approach is essential for developing and maintaining a regulatory framework that is both effective in mitigating alcohol-related harm and responsive to the evolving social and economic landscape.

References

1. South Africa. 1989. Liquor Products Act (Act No. 60 of 1989).
2. South Africa. 1989. Liquor Act (Act No. 27 of 1989).
3. South Africa. 1995. Liquor Amendment Act (Act No. 57 of 1995).
4. South Africa. 1996. Constitution of the Republic of South Africa.
5. Department of Trade and Industry, Republic of South Africa. 1997. *Liquor Policy Paper*. Government Gazette No. 18135, 11 July 1997.
6. South Africa. 1998. Liquor Bill (B131 B-98).
7. *Ex Parte President of the Republic of South Africa: In re Constitutionality of the Liquor Bill* [1999] ZACC 15.
8. South Africa. 2003. Liquor Act (Act No. 59 of 2003).
9. Department of Trade and Industry, Republic of South Africa. 2013. *Impact assessment on the effectiveness of the Liquor Act 59 of 2003.* Report prepared by DNA Economics and FOSHIZI for the DTI.
10. South African Government. 5 May 2012. *Statement by Minister Rob Davies, following the National Liquor and Gambling Policy Council meeting held in Cape Town.* Available at: https://www.gov.za/news/media-statements/statement-minister-rob-davies-following-national-liquor-and-gambling-policy.
11. South Africa. 2013. *National Liquor Norms and Standards*. General Notice No. 1194 of 2013, Government Gazette No. 37110, 4 December 2013.
12. South Africa. 2014. *National Liquor Norms and Standards*. General Notice No. 80 of 2014, Government Gazette No. 37322, 11 February 2014.
13. South Africa. 2015. *Liquor Act, 2003: National Liquor Norms and Standards*. General Notice No. 85, Government Gazette No. 38459, 13 February 2015.
14. Department of Trade and Industry, Republic of South Africa. 2016. *Final Liquor Policy Paper: National Liquor Policy Review.* Government Gazette No. 40321, 30 September 2016.
15. South Africa. 2010. *Commencement of Northern Cape Liquor Act, 2008, in the Northern Cape Province*. General Notice No. 280, Government Gazette No. 33049, 23 March 2010.
16. South Africa. 2012. *Western Cape Liquor Act, 2008*. Notice 143, Government Gazette No. 35065, 24 February 2012.
17. South Africa. 2014. *Coming into operation of the KwaZulu-Natal Liquor Licensing Act*. General Notice No. 134, Government Gazette No. 37378, 26 February 2014.
18. Limpopo Province. 2009. Limpopo Liquor Act (Act No. 5 of 2009).

19. North West Province. 2016. North West Liquor Licensing Act (Act No. 6 of 2016).

20. Gauteng Province. 2014. Gauteng Liquor Act (Act No. 3 of 2014).

21. Eastern Cape Province. 2018. Eastern Cape Liquor Authority Act (Act No. 4 of 2018).

22. South Africa. 2021. Liquor Products Amendment Act (Act No. 8 of 2021).

23. Free State Province. 2024. Free State Gambling, Liquor and Tourism Amendment Act (Act No. 3 of 2024).

24. Western Cape Province. 2023. *Draft Western Cape Liquor Amendment Bill, 2023*. Provincial Notice No. 112, Provincial Gazette No. 8850, 15 November 2023.

25. South Africa. 2023. *Prevention of and Treatment for Substance Use Disorders Policy*. General Notice No. 4058. Government Gazette No. 49658, 10 November 2023.

26. South Africa. 2005. Intergovernmental Relations Framework Act (Act No. 13 of 2005).

ADDENDUM

Annexure A

Timeline of passage and commencement of provincial liquor Acts

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
E. Cape	10/03 P	10/03 C														4/18 P							
Free State					3/07 P			6/10 P + C															
Gauteng	2/03 P	2/03 C										3/14 P											
KZN								6/10 P				6/10 C											
Limpopo							5/09 P														5/09 C		
Mpumalanga				5/06 P			5/06 C																
N. Cape						2/08 P		2/08 C														6/24 P + C	
North West														6/16 P									6/16 C
W. Cape						4/08 P				4/08 C													

Key:

- Provincial Acts designated by abbreviated Act numbers, e.g. “2/03” means Act 2 of 2003 of the relevant province.

- Act numbers in **green** refer to Acts which are currently in effect.
- Act numbers in **red** refer to Acts which have been repealed.
- Act numbers in **orange** refer to Acts which have been passed, but have not yet come into effect.
- “P” means “passed”, and refers to the year in which the Act was passed by the relevant provincial legislature.
- “C” means “commenced,” and refers to the year in which the Act came into effect.
- Blocks coloured **orange** represent the year in which an Act was passed which is yet to come into effect.

Annexure B

PROPOSED COMPOSITION OF THE NATIONAL LIQUOR ADVISORY COMMITTEE

The proposed National Liquor Advisory Committee shall consist of 24 persons, including –

a) Four persons representing the liquor industry, consisting of one person from each of the following sectors –

   i) Manufacturing sector;

   ii) Wholesale sector;

   iii) Retail sector;

   iv) Micro-manufacturing sector.

b) Seven persons representing society in general, having regard to the demographic composition of the population, gender equity, and a fair geographic spread.

c) An officer of the national department responsible for liquor matters.

d) Twelve officers from the national, provincial and local spheres of government representing each of the following functional areas –

   i) Health;

   ii) Social services;

   iii) Education;

   iv) Transport;

   v) Safety and security;

   vi) Economic affairs and tourism;

   vii) Agriculture;

   viii) Arts, culture, science and technology;

ix) Women and youth;

x) Finance and revenue services;

xi) Cooperative governance and traditional affairs; and

xii) Justice and community development.

PROPOSED FUNCTIONS OF THE NATIONAL LIQUOR ADVISORY COMMITTEE

The proposed functions of the National Liquor Advisory Committee are –

a) To consult on—

i) National norms and standards for the liquor industry;

ii) National policy in respect of the liquor industry, aligned to broader public health, economic, and social development strategies;

iii) Liquor legislation or regulations, including the promotion of a coordinated and coherent liquor regulatory framework across all spheres of government;

iv) Any matter concerning the liquor industry within the national, provincial and local spheres of government;

v) Any matter concerning the management or monitoring of the liquor industry in the South Africa, or licensing in any province;

vi) Any other matter that may be referred to it by a member of the Committee.

b) To commission and review research on the social, economic, and health impacts of alcohol consumption so as to inform policy recommendations and interventions at all levels of government;

c) To monitor the implementation of liquor legislation and assess its effectiveness, and to recommend necessary adjustments to ensure that policy objectives are met most effectively;

d) To promote and facilitate intergovernmental relations in respect of the liquor industry; and

e) To facilitate the settlement of intergovernmental disputes concerning the liquor industry.

DG MT

Rethink Your Drink

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