

MINIMUM DRINKING

AGE



Letting the people decide the minimum legal drinking age

Debate over South Africa's minimum legal drinking age has remained stalled despite strong public health evidence for reform. This policy brief examines the case for raising the minimum legal drinking age from 18 to 21, drawing on international research, constitutional principles, and local data on youth alcohol-related harm. It explores the legal, political, and rights-based arguments that have impeded progress, and proposes a national referendum as a democratic pathway to resolve the impasse and advance meaningful protection for young people.

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Executive Summary

South Africa is confronting a growing public health crisis fueled by hazardous alcohol consumption and binge drinking. A growing body of international evidence points to the effectiveness of raising the minimum legal drinking age (MLDA) as a targeted intervention to reduce alcohol-related harms among the youth.

This Policy Brief uses the terminology of an MLDA, while acknowledging that the current legal framework at national level only prohibits the sale or supply of alcohol to those under 18. Underage drinking itself is only illegal in three of South Africa's nine provinces.

The South African National Liquor Policy of 2016 recommended an increase in the MLDA from 18 to 21, and this proposal was incorporated in the draft Liquor Amendment Bill, 2016. However, nearly a decade later, the proposal remains stalled, hindered by political resistance, industry opposition and concerns about individual autonomy.

Meanwhile, continued research shows that raising the MLDA may lead to substantial reductions in alcohol-related traffic injuries and deaths, lower rates of hazardous alcohol consumption among youth, and potential for long-term improvements in public health.

There have been constitutional considerations raised regarding 18- to 20-year-olds' rights to dignity and bodily integrity. However, public health measures that impose reasonable limits on rights when those measures serve a legitimate purpose—such as protecting life, health and safety have previously been upheld in court. This aligns with precedent and international practices, with at least 17 countries maintaining an MLDA of 21 despite having 18 as the legal age of majority.

Given the legislative impasse described in previous policy briefs and the complexity of balancing public health, individual rights and political feasibility, this Policy Brief proposes a national referendum as a viable, democratic mechanism to determine public opinion on the MLDA.

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A referendum would allow the electorate to directly determine whether the MLDA should be raised, providing clarity and legitimacy to the legislative decision making. By aligning the referendum with the 2026 local government elections, logistical costs may be minimised and public participation maximised.

This policy brief concludes that raising the MLDA to 21 is an evidence-based and constitutionally defensible reform with significant potential benefits. A referendum provides a democratic pathway to resolve this long-standing policy question and ensure that the voices of South Africans are central in shaping the country's approach to alcohol regulation and youth protection.

Introduction

For nearly a decade, public health experts, civil society and national policy have signaled the need to raise the MLDA^a from 18 to 21 years of age as a key harm reduction measure.

The National Liquor Policy of 2016 explicitly recommended this change, citing international evidence that raising the legal drinking age significantly reduces alcohol-related injury, addiction and death among young people.

Yet, despite this policy commitment, the legislative process has stalled. The Liquor Amendment Bill, 2016, which includes the MLDA reform, has made little progress. It has been entangled in political hesitancy and is subject to strong opposition from the liquor industry. This has created a situation where an evidence-based policy is accepted in principle but is unimplemented in practice. The result is a public health impasse with significant consequences for South Africa's youth, families and communities.

This Policy Brief argues that a national referendum offers a practical and democratic solution to break this stalemate. By allowing the public to decide directly on whether the legal drinking age should be raised, a referendum can move the country forward with clarity and legitimacy. A referendum will also shield political office-bearers from the electoral risks of leading this reform with no public input, while empowering citizens to shape a decision that reflects shared social values and priorities.

The Brief outlines the rationale for a referendum, explores how it could be implemented in the South African context, and addresses the benefits of using this seldom-invoked democratic mechanism to resolve one of the country's most enduring alcohol policy debates.

^a The term "minimum legal drinking age" is used as a term which is easily relatable to the public. As discussed below, however, it is not strictly correct because, subject to certain exceptions, South African law prohibits and criminalises the sale or supply of liquor to minors rather than underage drinking.

The Current Legislative and Policy Framework

The current prohibition of sale or supply of alcohol to persons under the age of 18 appears in section 10 of the national Liquor Act, 2003¹ – see sidebar. Exceptions are provided for supply of moderate quantities of alcohol to minors by parents, adult guardians or persons responsible for administering a religious sacrament, where the liquor is consumed in the presence and under the supervision of that person.

Most provincial liquor laws follow the national model of prohibiting sale or supply of liquor to persons under the age of 18, as opposed to underage drinking (see **Annexure**).

The Free State extends the prohibition on the sale or supply of alcohol to minors to also include all school-going learners, irrespective of age. Limpopo also prohibits the sale of alcohol to anyone dressed in school uniform.

As is apparent from section 10 of the national Liquor Act, the notion of a “minimum drinking age” is a misnomer, at least at a national level in South Africa. The legislation does not prohibit the consumption of alcohol by minors; but rather prohibits the sale or supply of liquor to minors. It does prohibit minors from making false claims about their age to induce a person to sell or supply liquor to them.

LIQUOR ACT, 59 OF 2003

SECTION 10

Prohibition of supply of liquor or methylated spirits to minor.—

- (1) A person must not sell or supply liquor or methylated spirits to a minor.
- (2) Despite [subsection \(1\)](#), the parent, adult guardian of a minor or a person responsible for administering a religious sacrament, may on occasion supply to that minor a moderate quantity of liquor to be consumed by the minor in the presence and under the supervision of that parent, guardian or other person.
- (3) A person must take reasonable measures to determine accurately whether or not a person is a minor, before selling or supplying liquor or methylated spirits to that person.
- (4) A minor must not make a false claim about age in order to induce a person to sell or supply liquor or methylated spirits to him or her.
- (5) A person must not make a false claim about the age of a minor in order to induce a person to sell or supply liquor or methylated spirits to the minor.
- (6) A minor must not—
 - (a) produce liquor;
 - (b) import liquor; or
 - (c) supply liquor to any other person.

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However, the liquor laws of three provinces – KwaZulu-Natal, North West and Western Cape – additionally prohibit, and make it an offence, for a person under the age of 18 years to “obtain or consume liquor in contravention of this Act”.

South Africa’s National Liquor Policy, 2016,² cites research which shows that teenage drinking is on the rise, and that the younger people start drinking, the more likely that they will experience problems from high alcohol consumption at a later stage. It also points to the fact that important neurological development continues until the age of 25. The intake of alcohol may cause negative effects on the development of the human brain, should individuals consume alcohol before the age of 25.

The policy discusses international research which shows a correlation between raising the minimum legal drinking age and a reduced risk of harm through events associated with the impairment produced when a person is intoxicated, such as road accidents. It concludes that it is imperative to delay initiation of liquor consumption by youth for as long as possible. The policy document therefore indicates that the MLDA should be increased from 18 to 21 years.

The National Liquor Policy informed the development of the draft Liquor Amendment Bill, 2016³, which provided for the raising of the MLDA to 21 years. This proposed rise in the MLDA was opposed by industry, which argued instead for better enforcement of existing underage drinking laws and improved education for youth about the dangers of abuse and underage drinking.⁴

Almost a decade after the draft Liquor Amendment Bill, 2016, was gazetted for comment, it has yet to be introduced to Parliament.

Why Raising the MLDA Matters

A 2023 review of alcohol control policies by Babor et al⁵ provides support for the use of MLDA laws, especially when combined with effective enforcement and community mobilisation, as a critical and evidence-based policy tool to delay onset of drinking, reduce youth alcohol consumption, and prevent alcohol-related harms including traffic fatalities, crime and long-term health consequences.

Some of the studies cited by Babor et al include the following:

- A comprehensive review of 135 studies (mostly from the U.S.) by Wagenaar et al⁶ concluded that raising the legal drinking age to 21 is a more effective strategy to reduce alcohol consumption and related problems among high school and college students, compared to a range of other prevention programs.
- Studies by Carpenter and Dobkin^{7,8} found that increasing the MLDA from 18 to 21 in the U.S. led to a 17% reduction in night-time traffic fatalities amongst 18-20 year olds, decreased suicide mortality, and lowered arrest rates for various crimes including alcohol-impaired driving and assault. They also reported reductions in participation in alcohol consumption, heavy episodic alcohol consumption and frequency of alcohol consumption among this age group.
- Conversely, Babor et al cited various studies which found that lowering drinking ages to 18 in certain states in Australia and in New Zealand was associated with increases in traffic deaths, hospital admissions, juvenile crime and alcohol problems among youth.⁹⁻¹²

A 2022 evaluation by Genesis of the likely impact of provisions of the draft Liquor Amendment Bill (the Genesis report),¹³ commissioned by Business Unity South Africa, found that the proposed increase in the MLDA from 18 to 21 would lead to an estimated drop in volume of aggregate consumption of alcohol in South Africa of between 3.41% and 3.96% - with the variability dependent on enforcement levels. Adjusting results of international case studies for lower enforcement levels in the South African context, the authors estimated that the increase in the MLDA would result in –

- a 10.4% reduction in aggregate hazardous consumption;
- an 11.1% reduction in alcohol-related traffic injuries among youth aged 15-20; and
- a 13.2% reduction in alcohol-related traffic fatalities among youth aged 15-20.¹³

When combined with the advertising restrictions proposed in the draft Liquor Amendment Bill, the report estimated that alcohol consumption would be reduced for 40,100 to 78,000 people aged 15 to 20 in the short-term, and 376 lives would be saved

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per year through a reduction in alcohol-attributable road traffic fatalities. The resulting reduction in public health costs would likely be between R1.06 billion and R1.34 billion per year.¹³

In considering an appropriate MLDA, it is also important to take into account scientific research which shows that the human brain continues to develop into the early- to mid-twenties, particularly in areas related to judgment, impulse control and emotional regulation.¹⁴⁻¹⁶ Alcohol disrupts this development, increasing the risk of long-term harm. Commencement of alcohol consumption at an early age is tied to impaired learning, memory, and executive function, with structural brain changes (e.g., reduced gray/white matter volume) observed in those who consume alcohol.¹⁷ Early alcohol use is also associated with higher rates of alcohol dependence later in life.^{18,19}

These risks are amplified in the South African context, where there is a particularly poor record of high alcohol consumption and abuse,²⁰ including among adolescents and young adults.²¹ This exacerbates the already high level of developmental challenges faced by South African youth, including high unemployment²² and limited access to mental health services.²³

Recognition of these realities presumably explains the fact that data from the South African arm of the International Alcohol Control study found that 77% of drinkers aged 18 to 65 in the Tshwane Metropolitan Municipality supported increasing the MLDA to 21 years.²⁴

Counter-Arguments to Raising the MLDA

The proposed increase in the MLDA from 18 to 21 years, as contained in the draft Liquor Amendment Bill, 2016, was strongly opposed by the manufacturing and retail liquor industry.

A report on deliberations on the Bill at the National Economic Development and Labour Council (NEDLAC)⁴ revealed that business argued that increasing the MLDA was incongruent with South Africa's legal age of majority.

Section 17 of the Children's Act, 2005,²⁵ provides that children become majors upon reaching the age of 18 years. On turning 18, children gain full legal capacity to enter into contracts and exercise adult rights and responsibilities without parental assistance. In terms of section 8 of the Electoral Act, 1998,²⁶ South African citizens are also entitled to vote at age 18.

Industry argued that if a person has the right to get married, sign a contract and vote, they should also be allowed to consume alcohol responsibly. Instead of restricting the legal drinking age, business argued in NEDLAC that current laws needed to be enforced more effectively to prevent underage alcohol consumption and that efforts to educate youth on the risks of alcohol abuse needed to be intensified.⁴

Notably, the NEDLAC report did not indicate objections to an increase in the MLDA on economic grounds. This may be indicative of the difficulty in sustaining an economic argument for the sale of alcohol to the youth in the face of likely cost savings to the economy arising from anticipated benefits from a public health and safety perspective.

The 2022 Genesis report on the likely impact of the Liquor Amendment Bill, 2016, estimated relatively small economic impacts of the provisions of the Bill concerning increases to the MLDA and advertising restrictions.

The economy-wide net job losses resulting from the proposed changes was estimated to range from a negligible amount in a low impact scenario to 443 jobs lost by 2031 – a reduction of less than 0.01% of jobs across the economy.

When considering the alcohol industry as a subset of the economy, it was estimated that an MLDA of 21 years of age combined with the proposed advertising restrictions would result in between 1,531 and 1969 fewer jobs by 2031 (a 2.1% to 2.7% decrease).¹³

That report did indicate that stakeholders had raised concerns about the adverse impact of an MLDA of 21 years of age on liquor retailers who are largely dependent on the student market.

Other concerns expressed by stakeholders included doubts about the effectiveness of an increase in the MLDA if enforcement is inadequate, as well as a concern that it will increase illicit trade in alcohol.¹³

Constitutional considerations

Rights to Dignity and to Bodily and Psychological Integrity

A rise in the MLDA to 21 years of age may well be subject to Constitutional challenge on the basis that it allegedly undermines the autonomy of adult persons and thereby infringes their right to dignity, enshrined in section 10 of South Africa's Constitution,²⁷ and their right to bodily and psychological integrity, enshrined in section 12(2) of the Constitution.

Similar arguments were made by the applicants in the case of South African Breweries (Pty) Ltd (SAB) and others vs the President of the Republic of South Africa and Another.²⁸ In this matter, heard in the Western Cape High Court, SAB and others challenged the restrictions on the availability of alcohol during the Covid pandemic alleging, amongst other things, that the restrictions violated the right to dignity by taking away consumers' rights to choose to purchase and consume alcohol.

In support of this contention, the applicants relied on the case of *Barkhuizen v Napier*²⁹ in which the Constitutional Court had made the statement:

"Self-autonomy, or the ability to regulate one's own affairs, even to one's own detriment, is the very essence of freedom and a vital part of dignity"(par 57).

They also argued that peoples' rights to bodily and psychological integrity were being infringed because their autonomy to make decisions concerning what, when and how they consumed alcohol were being unduly restricted.

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In the SAB matter, the Western Cape High Court did not expressly decide on whether the restrictions on availability of alcohol did indeed constitute a violation of consumers' rights to dignity and to bodily and psychological integrity.

The court nevertheless found that even if the alcohol sales restrictions during the pandemic did infringe on such rights of persons wishing to consume alcohol, by freeing up bed space in emergency units they were protecting the same rights to dignity and bodily and psychological integrity of people infected with COVID-19 and in desperate need of hospitalisation. As a consequence, the impugned regulations were reasonable and justified.

Considering this case law, it is quite conceivable that a court would find that an increase in the MLDA to 21 years of age limits the autonomy of persons between the ages of 18 and 21 and thereby constitutes an infringement of the constitutionally protected rights of such persons to dignity and bodily and psychological integrity.

However the SAB judgment demonstrates that no right is an absolute right. Given that it is decided that there is such an infringement of rights, the enquiry would then turn to whether such infringement is justified in terms of section 36 of the Constitution.

Section 36(1) of the Constitution provides that the rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors.

Such factors include: the nature of the right; the importance of the purpose of the limitation; the nature and extent of the limitation; the relation between the limitation and its purpose; and less restrictive means to achieve the purpose.

In evaluating the justifiability of an increase in the MLDA to 21 years of age in terms of section 36(1) of the Constitution, there can be no question that the rights at stake – to dignity and to bodily and psychological integrity – are fundamental and important.

As with the SAB matter discussed above a key consideration before the court will be that these rights don't exist in a vacuum. People over the age of 18 who purchase and consume alcohol may have their autonomy infringed upon by raising the MLDA to the age of 21. However, the third-party victims of hazardous alcohol consumption – those at risk of injury or death from road accidents, domestic and gender-based violence, physical and sexual assault and so on are also entitled to dignity and bodily and psychological integrity.

In this regard, it is relevant that while the 2022 Genesis report¹³ estimated that raising the MLDA from 18 to 21 years of age would reduce overall consumption of alcohol in South Africa between 3.41% and 3.96%, the impact on levels of hazardous alcohol consumption would be far greater – at 10.4%. This emphasises the disproportionately high levels of hazardous alcohol consumption amongst young people. The estimated 13.2% reduction in alcohol-related traffic fatalities contained in the report amongst youth aged between 15-20 years of age would probably include a significant proportion of young people who could not be argued to have voluntarily assumed risk of death due to alcohol consumption. Not only are the rights to dignity of such people at stake, but indeed also their right to life – the most fundamental of all rights.³⁰

It may also be relevant to the Court's decision making that, while the majority of countries have an MLDA of 18 years of age, at least 17 countries currently set the MLDA at 21 years.³¹ This includes the United States of America (USA), where the MLDA of 21 applies countrywide. The alignment of MLDA in all states in the USA followed the federal government's passage of the Uniform Drinking Age Act in 1984.³² This despite the fact that the age of majority in most states of the USA is 18 years of age.³³

In terms of section 9 of South Africa's Firearms Control Act, 2000,³⁴ the minimum age of eligibility for a firearm licence is 21 years, although exceptions can be made if there are compelling reasons to do so.

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This is presumably to allow for young people, despite having reached the age of majority, to develop the necessary cognitive and psychological maturity to handle firearms responsibly.

Arguably, similar reasoning applies to youth alcohol consumption, given the high levels of hazardous alcohol consumption among young people in South Africa, together with the associated risks for those who consume alcohol and the people in their community.

Given the above, there is a reasonable likelihood that, assuming a court finds that raising the MLDA to 21 years of age would be an infringement of the right to dignity or the right to bodily and psychological integrity, it would nevertheless be found to be a justifiable limitation on those rights in terms of section 36(1) of the Constitution.

The likelihood that the courts would make such a finding is probably greater if only the sale and supply of liquor to underage persons is restricted, as is currently the case in terms of the National Liquor Act, 2003 and most provincial liquor laws, as opposed to there being a prohibition on underage consumption of liquor, as is currently the case in the provincial liquor laws of KwaZulu-Natal, North West and Western Cape.

Given the fact that most countries, including the USA, only apply age restrictions to the sale and supply, and not the consumption of alcohol, a court may well find that criminalisation of those who are underage who consume liquor is more punitive and restrictive than is warranted to achieve the harm reduction objectives of the legislation.

It may also be reasonable to include transitional provisions in the legislation to ensure that persons aged 18 or over at the time of passage of the legislation are not summarily deprived of a right they had previously enjoyed.

National or Provincial Competency?

The question also arises as to whether raising the MLDA to 21 years of age could be effected by means of national legislation, or whether each province could individually

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decide whether to adjust the MLDA. It is submitted that national government enjoys the competence to raise the MLDA through legislation which applies uniformly across South Africa for the following reasons.

First, although the prohibition of sale and supply of liquor to minors applies to holders of retail liquor licences, it also applies to persons who are not holders of liquor licences. In terms of the current wording of section 10 the Liquor Act, 2003,¹ the prohibition of sale or supply of liquor to people under the age of 18 years applies to everyone (licensees and non-licensees alike).

Provision is made in subsection (2) for the limited exception where a parent, adult guardian of a minor or a person responsible for administering a religious sacrament, who may on occasion supply a moderate quantity of liquor to a minor, to be consumed by the minor in the presence and under the supervision of such person.

The application of the provisions of an MLDA extend beyond the retail sale of liquor and regulation of liquor licences – and are therefore likely outside the legislative competence of provincial legislation governing liquor licences.

In the unlikely event that the MLDA is found to fall within the jurisdiction of provincial legislation governing liquor licences it is likely that a national intervention providing for a nationally uniform MLDA would be considered necessary to allow for economic unity. This would then be justified in terms of section 44(2)(b) of the Constitution – especially given the high volumes of the retail inter-provincial liquor trade which occurs as a result of a growth in eCommerce (see **Policy Brief 3**).

It seems more likely that the MLDA would be considered to fall within the concurrent national and provincial legislative competence of consumer protection, in terms of Schedule 4A of the Constitution. If this is correct, it is likely that national legislation providing for the MLDA would prevail over provincial legislation if a conflict arises, in terms of section 146(2) of the Constitution.

A key factor in this determination is the need for uniformity in the MLDA given the increase of the inter-provincial trade in liquor as a result of eCommerce. This inter-provincial retail liquor trade is a matter that cannot be regulated effectively by legislation enacted by the respective provinces individually – see section 146(2)(a) of the Constitution. It would be impractical and chaotic for eCommerce providers selling liquor on national online platforms to differentiate age requirements and verification procedures for different ages depending on the province in which the consumer is located.

Proposed Way Forward

In terms of the above analysis, there appears to be no significant legal impediment to increasing the MLDA from 18 to 21 years of age in national legislation. The public health benefits of such a move are many, and the negative economic impact on the liquor industry is likely to be minimal.

Yet almost a decade after the National Liquor Policy of 2016 recommended raising the MLDA, and after this recommendation was included in draft legislation, a final political decision on whether the MLDA should be raised to 21 years of age has yet to be made.

This impasse seems to be less about evidence, or benefits, or legality and more about social norms, political courage, competing interests and policy inertia. Given the evident political intractability of the proposal to raise the MLDA, what action would be the most appropriate to resolve this?

In the aftermath of the Enyobeni Tavern tragedy in 2022,^b President Ramaphosa suggested that the matter needed to be resolved through national debate. In the eulogy given by him at the funeral for the victims of this tragedy, on 6 July 2022, the President said, to applause from the mourners:

^b On the night of Saturday, 25 June 2022, twenty-one young people aged between 13 and 21 years old, died at the Enyobeni Tavern located at Scenery Park, East London. They had visited the tavern as part of a “pens down” celebration to mark the end of the school exams.³⁸ In response, there were calls for stricter regulation of liquor in the country, including reportedly a call by the Royal House of Mandela for a total ban on alcohol in communities.³⁹

"Alcohol, as we all know, is highly addictive. It is something to be consumed in moderation and responsibly, and only by those who are of a legal age to do so. Now a number of people have been sending messages through to me and saying, President, maybe the legal age of drinking should now be lifted to 21, rather than where it is. Now, clearly, I want this to be a national debate. Let us discuss it so that we can arrive at a consensus. The bodies and brains of young people are still growing and changing. They are too young to understand the fine line between having a good time and becoming addicted."³⁵

The President's call for a national debate on this issue is both laudable and necessary but, given the competing interests involved, his confidence that a national consensus would be achieved on the issue seems to be misplaced.

Alternatively, a national referendum on the subject offers a credible, democratic, and pragmatic mechanism to break the impasse and allow society to make a clear, legitimate choice. A referendum would shift the decision-making authority from the politicians to the public, allowing the electorate to make the final call.

Referendums have never been used in post-Apartheid South Africa, and were exceedingly rare before that. A referendum on this subject may therefore seem like a radical proposal. Yet referendums constitute an important part of democratic decision making processes in countries around the world and are used with increasing frequency.³⁶

A referendum on raising the MLDA to 21 years of age will relieve political office-bearers from direct accountability for a potentially unpopular and polarising choice; restore momentum to stalled public health policy; and ensure the decision has democratic legitimacy. It will also provide a meaningful and structured mechanism to give effect to President Ramaphosa's call for a national debate on the issue, ensuring that every citizen in South Africa is provided with an opportunity to contribute to the outcome.

A referendum has the potential for ancillary societal benefits through promoting public education on the harms associated with alcohol consumption and responsible alcohol

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consumption; and strengthening civic engagement and public trust in institutions by demonstrating responsiveness and transparency.

Unlike many complex policy decisions, the MLDA proposal is particularly suitable for resolution by referendum because it is essentially a binary choice between two options. The question could be clearly and simply worded as, for example:

“Should the minimum legal age for purchasing alcohol in South Africa be raised from 18 to 21 years?”

It is also suitable for resolution by referendum because it is a matter of significant public interest, affecting individuals, families, communities and businesses, and essentially revolves around the importance that society affords to values of individual autonomy, as against the importance of the protection of public health and safety.

A national referendum is both legally permissible and administratively feasible within the current Constitutional and electoral framework. South Africa’s Constitution allows for the use of referendums at the national level. In terms of Section 84(2)(g) of the Constitution, the President has the power to call a national referendum. The process is governed by the Referendums Act, 1983,³⁷ which, although outdated, remains in force and provides the legal framework for conducting such a vote.

Clearly, considerations of cost and administrative complexity are likely to rule out the option of a standalone referendum on this issue. However, synchronising the referendum with elections held on a national basis provides a viable and efficient solution to this issue. South Africa’s 2026 local government elections offer a particularly timeous opportunity, which would allow for an additional ballot paper for such a referendum.

The advantages of synchronising the proposed referendum with the upcoming local government elections include:

- cost savings, in that logistical infrastructure (staff, voting stations, security) will already be in place;

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- a likelihood of high voter turnout, enhancing the democratic legitimacy of the referendum outcomes; and
- improved public engagement with the issues at stake, because it will be easier to integrate public education and awareness into broader election communication.

In summary, a national referendum on the MLDA is both legally viable and operationally feasible, and could serve as an effective and efficient mechanism to resolve the political deadlock on raising the MLDA. By aligning it with the local government elections, South Africa could maximise participation and minimise costs, while resolving a long-standing public health impasse in a democratic and transparent manner.

Conclusion

The debate over increasing South Africa's minimum legal drinking age from 18 to 21 years is both complex and consequential, intersecting public health imperatives, constitutional rights and economic considerations.

International evidence demonstrates that raising the MLDA can significantly reduce hazardous alcohol consumption, traffic injuries and fatalities among youth, with substantial benefits for public health and safety. On the other hand, economic analysis suggests relatively modest impacts on employment within the South African alcohol industry.

While concerns about individual autonomy and alignment with the legal age of majority are valid and constitutionally significant, the South African context of high rates of problematic excessive alcohol consumption amongst the youth and the concomitant harms resulting from this provide a compelling justification for reform.

The Constitution permits reasonable and justifiable limitations on rights, especially where such measures protect the dignity, health and safety of others, particularly vulnerable groups such as children and young adults.

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Given the persistent legislative deadlock and the strong evidence base for reform, this Policy Brief recommends that a national referendum be considered as a democratic and pragmatic mechanism to resolve the issue.

Such a process would empower South Africans to directly shape a policy that reflects shared values and priorities, while providing lawmakers with clear public backing for decisive action.

Ultimately, raising the minimum legal drinking age to 21 years of age represents an evidence-based intervention with the potential to deliver lasting benefits for South Africa's youth, families and communities. Additionally, the question of whether to raise the MLDA is not only about alcohol regulation, but is also about the kind of society we want to create and what values that society holds dear.

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ANNEXURES

Annexure: Provincial MLDA laws

Eastern Cape

Liquor Act, 10 of 2003

38. Prohibition on sale of liquor to certain persons.—No registered person may sell liquor to—

- (a) any person who is under the age of 18 years; or
- (b) an intoxicated person.

59. General offences.—(1) No person may— ...

(g) falsely represents himself or herself or any other person to be over the age of 18 years in order to persuade a registered person, or his or her agent or employee, to sell or supply liquor to him or her or to that other person;...

Liquor Authority Act, 4 of 2018 (date of commencement still to be proclaimed)

38. Minors.—(1) No person shall sell liquor to a minor.

(2) A licensee or a manager, as the case may be, shall not allow a minor to consume liquor on the licensed premises.

(3) A licensee or a manager, as the case may be, may not allow a minor to be in a part of licensed premises in which such a person may not be in terms of this Act or in terms of a condition of the licence.

(4) A minor may not obtain or consume liquor in contravention of this Act or mislead any person regarding his or her age in order to obtain or consume liquor or gain access to parts of licensed premises which such a person may not enter.

Free State

Gambling, Liquor and Tourism Act, No. 6 of 2010

26. Restriction of supply of liquor or methylated spirits to a person younger than eighteen (18) years or school going learner.—(1) A person may not sell or supply liquor or methylated spirits to a person younger than eighteen (18) years or a school going learner.

(2) Despite subsection (1), the parent or adult guardian of a person younger than eighteen (18) years or school going learner may on a religious occasion supply to that person younger than eighteen (18) years or school going learner a sip of liquor to be consumed by the person younger than eighteen (18) years or school going learner in the presence and under the supervision of that parent or guardian.

(3) A person must determine accurately whether or not a person is a person younger than eighteen (18) years or school going learner, by viewing such person's identity document, driver's licence or passport, as well as if he or she is wearing school uniform, before selling or supplying liquor or methylated spirits to that person.

(4) A person must refuse to sell liquor or methylated spirits to a person—

(a) younger than eighteen (18) years;

(b) who refuses or fails to produce his or her identity document, drivers licence or passport; or

(c) who is wearing school uniform.

(5) A person younger than eighteen (18) years or school going learner may not make a false claim about age in order to induce a person to sell or supply liquor or methylated spirits to him or her.

(6) A person may not make a false claim about the age of a person younger than eighteen (18) years or a school going in order to induce a person to sell or supply liquor or methylated spirits to the person younger than eighteen (18) years or school going learner.

(7) A person younger than eighteen (18) years or school going learner may not supply liquor or methylated spirits to another person.

(8) Subject to section 24 (1), a person younger than eighteen (18) years or school going learner must not be permitted in or to enter the restricted area of a registered premises.

Gauteng

Liquor Act, No. 2 of 2003

46. Minors.—A licensee shall not sell or supply liquor on the licensed premises to persons under the age of 18 years nor allow such a person who is not a person contemplated in section 45 (2), to be in any restricted part of those premises.

KwaZulu-Natal

Liquor Licensing Act, No. 6 of 2010

76. Prohibition on sale and supply of liquor or methylated spirits to certain persons.—

(1) A person may not—

- (a) sell liquor to a person under the age of 18 years;
- (b) give or supply liquor to a person under the age of 18 years or allow such a person in his or her care or under his or her supervision to consume liquor, except where it is given or supplied in negligible quantities and in the performance of a religious ceremony or service;
- (c) allow a person under the age of 18 years to consume liquor on premises of which he or she is the licensed person or which are under his or her control;
- (d) allow a person under the age of 18 years to be in a part of the licensed premises upon which such a person may not be in terms of this Act, or in terms of a condition of the licence save for persons who are being trained at such licensed premises; or
- (e) sell or supply liquor to any person who is visibly intoxicated, violent, disorderly or under the influence of a drug having a narcotic effect.

(2) A person under the age of 18 years may not—

- (a) obtain or consume liquor in contravention of this Act; or
- (b) mislead any person as to his or her age in order to obtain or consume liquor or to gain access to parts of licensed premises which such person may not enter.

(3) Any person who fails to comply with subsections (1) and (2) is guilty of an offence.

(4) The provisions of this section apply with the necessary changes to the sale or supply of methylated spirits to certain persons.

Limpopo

Liquor Act, No. 5 of 2009

47. Prohibition on sale of liquor.—No person may sell liquor to a person who is—

- (a) under the age of 18 years;
- (b) dressed in school uniform;
- (c) visibly intoxicated; or
- (d) pregnant.

Mpumalanga

Liquor Licencing Act, No. 5 of 2006

44. Prohibition on sale of liquor to certain persons.—No person may sell liquor to—

- (a) any person who is under the age of 18 years; or
- (b) any person who is violent, drunk or disorderly or under the influence of a drug having a narcotic effect.

North West

Liquor Licensing Act No. 6 of 2016

68. Prohibition on sale or supply of liquor to certain persons.—(1) A person may not—

- (a) sell liquor to a person under the age of 18 years;
- (b) give or supply liquor to a person under the age of 18 years or allow such a person in his or her care or under his or her supervision to consume liquor, except where it is given or supplied in negligible quantities and in the performance of a religious ceremony or service;
- (c) allow a person under the age of 18 years to consume liquor on premises of which he or she is the licensed person or which are under his or her control;
- (d) allow a person under the age of 18 years to be in a part of the licensed premises upon which such a person may not be in terms of this Act, or in terms of a condition of the licence save for persons who are being trained at such licensed premises; or
- (e) sell or supply liquor to any person who is intoxicated, violent, disorderly or under the influence of a drug having a narcotic effect.

- (2) A person under the age of 18 years may not—
 - (a) obtain or consume liquor in contravention of this Act; or
 - (b) mislead any person as to his or her age in order to obtain or consume liquor or to gain access to parts of licensed premises which such person may not enter.
- (3) Any person who fails to comply with subsections (1) and (2) commits an offence.

Northern Cape

Gambling and Liquor Act, No. 6 of 2024

- 95. Minors.**—(1) No licensee or his or her employee, or any person on his or her behalf, may sell liquor to a person below the age of 18 years.
- (2) The owner, proprietor or employee of a licensed sorghum or traditional African beer drinking place, tavern, night club, and liquor store premises must take reasonable steps to satisfy themselves of the age of a person prior to admitting such a person into a licensed premises.
- (3) Once the person(s) mentioned under subsection (2) above have satisfied themselves that the person seeking admission into their premises is a minor then they must refuse such a minor entry into the premises.

Western Cape

Liquor Act, No. 4 of 2008

- 54. Children.**—(1) No person may sell liquor to a person under the age of eighteen (18) years.
- (2) No person may give or supply liquor to a person under the age of eighteen (18) years or allow such a person in his or her care or under his or her supervision to consume liquor, except where it is given for the purpose of worship associated with the celebration of a religious observance.
- (3) A licensee or a manager, as the case may be, may not allow a person under the age of eighteen (18) years to consume liquor on the licensed premises.
- (4) A licensee or a manager, as the case may be, may not allow a person under the age of eighteen (18) years to be in a part of licensed premises in which such a person may not be in terms of this Act or in terms of a condition of the licence.

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(5) A person under the age of eighteen (18) years may not obtain or consume liquor in contravention of this Act or mislead any person regarding his or her age in order to obtain or consume liquor or gain access to parts of licensed premises which such a person may not enter.

(6) Any contravention of or failure to comply with subsection (1), (2), (3), (4) or (5) is an offence.



