



By Email

For Attention: Liquor Consultants, Liquor License Holders, Designated Liquor Officers

RE: SECTION 53 APPLICATIONS

Dear All,

Section 53 1 (a), (b) and (c) of the Western Cape Liquor Act 4/2008 as amended reads as follows:

Except with the prior written consent of the Presiding Officer granted upon application to the Authority and the designated liquor officer in whose area of jurisdiction the licensed premises are located, **in the prescribed form** and upon payment of the prescribed fee, a licensee may not—

- (a) carry out any structural alteration, addition, reconstruction or extension of or to the licensed premises;
- (b) materially change the nature of the business in respect of which a licence was granted from that described in the application considered by the Liquor Licensing Tribunal when granting the licence; or
- (c) conduct his, her or its business under the licence on premises on which any other business, including a business to which any other licence relates, or any trade or occupation is carried on or pursued, unless the Presiding Officer, at any time when the matter may in his or her opinion rightly be raised, determines otherwise in a particular case.

Regulation 23(1), (2) and (3) of the Western Cape Liquor Regulations of 2011 reads as follows:

- (1) A licensee who requires consent to perform any action referred to in section 53(1)(a) must lodge with the Authority and the designated liquor officer in whose area of jurisdiction the licenced premises are located an application in the form of **Form 18 in Annexure 3...**;
- (2) A licensee who requires consent to perform any action referred to in section 53(1)(b) must lodge with the Authority and the designated liquor officer in whose area of jurisdiction the licenced premises are located an application, in the form of **Form 19 in Annexure 3...**;
- (3) A licensee who requires consent to perform any action referred to in section 53(1)(c) must lodge with the Authority and the designated liquor officer in whose area of jurisdiction the licenced premises are located an application, in the form of **Form 20 in Annexure 3...**

Forms 18, 19 and 20 indicate under the heading “**DETAILS OF LICENSED BUSINESS**” Kind of liquor license, only provides for:

- Liquor License in terms of section 33(1)(b) and
- Liquor License in terms of section 33(1)(d)

This posed the challenge that licenses held in terms of section 33 (1)(a) and section 33(1)(c) were not included in Forms 18 - 20 and the Liquor Licensing Tribunal (LLT) then decided to adhere and implement as set out in the Regulations - Forms 18 - 20.

In order to address this the Western Cape Liquor Authority had put measures in place to amend Forms 18, 19 and 20. In the meantime a legal opinion was requested and the legal opinion was received and indicated that section 33 (1)(a) and section 33(1)(c) should also be included in the Form 18 and the LLT can in the interim accept and consider these applications.

We have decided also to reconsider all the applications in terms of Section 53 (a), (b) and (c) that were considered before the legal opinion was received and have been rejected based on the fact that it couldn't be considered due to the nature of the license. We request of you to inform us of any applications that you are aware of that falls within this category. You can email Mr Jahan Dreyer on Johan.Dreyer@westerncape.gov.za to report such cases.

Amendments will be made to the regulations to include section 33 (1)(a) and section 33(1)(c) to Form 18 - 20.

Regards,



ADVOCATE THYS GILIOME

CEO: WESTERN CAPE LIQUOR AUTHORITY

DATE: 12/02/2015