



# LAYING DOWN *the liquor law*

Shebeens: a lucrative cottage industry for all?

The not so new (anymore) Liquor Act of 2003 makes provision for licenses for the retail sale and consumption of liquor to be enforced by each province in South Africa, as such province deems fit. However, until the provinces pass their – long awaited – provincial legislation, which only Gauteng and the Eastern Cape have done so far; the previous 1989 Liquor Act still applies.

The working ethos of the 2003 Liquor Act, of reducing the socio-economic costs of alcohol abuse, and the promotion of a responsible and sustainable liquor industry within the country, encourages the Regulation inter alia of shebeens, a massive cottage industry that has, to a large extent, ducked under the radar screens of the authorities for a number of years.

The concept of a shebeen has been squeezed into the old 1989 Act by way of 'Special on-consumption licenses' (which have been termed 'tavern' licenses) to legalise patrons drinking on the premises, or 'Special off-consumption licenses' (referred to as 'Liquor Shop' licenses) for those who want to sell liquor retail to the public in their residential area. The holders of 'tavern' licenses must reside in the dominant portion of the residential property, running the tavern or shebeen on the side. The licenses may not overlap; to the extent that a separate dwelling must be constructed, where the 'Liquor Shop' will be run: the holders of the license are expected to apply separately for each license, and the establishments must be run separately and not under one roof.

Considering the crime statistics in the areas in which shebeens have traditionally operated, the extent to which these are actually policed on their liquor licenses is naturally up for debate. The main complaint from the liquor legislator's side appears to be that shebeen owners have, in the past, consistently sought to serve liquor on their premises, while at the same time selling liquor to the public for the purposes of consumption elsewhere, in contravention of 1989 Act. Although, because the shebeens weren't licensed, the owners

couldn't be brought to book for operating two essentially distinctive licenses out of the same premises. What you may find thought-provoking is that there should be no reason why you would be denied a tavern/shebeen license by your local Liquor Board. But it is the municipal bylaws applicable to your area which you will have to watch out for.

The Eastern Cape has recognised the need to legalise this combination of the retail sale and consumption of liquor on the same premises where the liquor is being sold to the public; to the extent that its legislators have included this as one of the categories of liquor licenses listed in the Eastern Cape Liquor Act 10 of 2003 (which you will find in the Provincial Government Gazette number 1128 of 4 March 2004). For guidelines on how to apply for your tavern/shebeen liquor license in the Eastern Cape, see *Laying Down the Liquor Law* in the August 2006 issue of Tot, on page 21. Your application should cost R300 and your annual licensing fee is currently R200.

Gauteng takes matters one leap forward, and then a few steps back. The Gauteng Liquor Act 2 of 2003 (which you will find on its provincial website at [www.gpg.gov.za](http://www.gpg.gov.za)), acknowledges the existence of shebeens and defines them as "any unlicensed operation whose main business is liquor and which is selling less than ten cases consisting of 12 x 750 ml beer bottles". The Act affords shebeen owners the opportunity to comply with the Act during a 'phasing-in period', which is policed in its accompanying Regulations (which you will also find on [www.gpg.gov.za](http://www.gpg.gov.za)).

However, these Regulations are rather thin, but stipulate that any person who, on 1 November 2004, was running a shebeen, had four months to lodge an application with their local committee (local magistrates court), for a shebeen permit which would enable them to conduct their business, until 30 April 2009, at which time they will be obliged to make application for one of the liquor licenses provided in the Act. If a shebeen owner had

not yet made application for a shebeen permit by 1 May 2006, they had three months within which to do so and, if successful, they would be issued with a permit which would be valid until 30 April 2007, at which time they would be obliged similarly to make a new application under the Act.

Provision is made in the Gauteng Act for the, now colloquial, 'tavern liquor license; which one would assume provides the criteria for the conversion of the shebeen permit to a license which falls within the ambit of the Act. Its application fee is R1 250. It presupposes that a residential dwelling exists on the same property. The licensed premises must, however, be separate from the residential dwelling by a wall or a securable door; alternatively, it should be housed in a completely separate dwelling on the property. The holder of such a license may provide food and various forms of entertainment (of acceptable standards) on the licensed premises. As with the shebeen, the tavern is likewise permitted to stay open from 10h00 to 02h00. For details on how to make an application for a tavern license, please refer to *Laying Down the Liquor Law* in the February 2007 issue of Tot, on page 22. If you also want to sell liquor to the public from the same property on which you conduct your shebeen/tavern, you will be obliged to apply separately for an off-consumption license as stipulated in the Act.

The Eastern Cape and Gauteng have adopted different approaches to the shebeen issue, which are playing out as we speak. As to which model is the most effective, time – and the new provincial legislation that is yet to be promulgated – will tell.

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