Case Summary: DGMT // Northern Cape Provincial Legislature and Others

Constitutional Court | 10 November 2026 | CCT 127/26

Introduction

The Constitutional Court will hear DG Murray Trust's (DGMT's) challenge to liquor trading provisions in the Northern Cape Gambling and Liquor Act 6 of 2024. The case raises an important question: what does the State's constitutional duty to protect people from alcohol-related harm require when legislatures determine when alcohol may be sold?

What the case concerns

The challenged provisions permit most on-consumption outlets, such as taverns and restaurants, to sell liquor until 02:00 daily, nightclubs until 06:00 on Mondays to Saturdays, and off-consumption outlets, such as bottle stores, to sell on Sundays. They also include a confusing provision governing sorghum or traditional African beer. The first Bill published for comment in 2023 proposed midnight closing for on-consumption outlets, including nightclubs, and excluded Sunday off-consumption sales. The final Act materially departed from those proposals.

Why it matters

DGMT argues that trading hours are a public health issue with consequences for violence, road injuries, children's wellbeing and pressure on health services. Its expert evidence links alcohol availability and consumption to serious health and social harms, with disproportionate burdens on disadvantaged communities. The evidence highlights the Northern Cape's exceptionally high levels of foetal alcohol syndrome at sites studied.

Three grounds of DGMT's case

(i) **Public participation.** DGMT argues that people affected by liquor laws must have a meaningful opportunity to influence them. The first Bill was published only in English, contrary to the Legislature's own rules. The materially revised Bill was not published for general public comment. A hearing was arranged on six working days' notice for selected stakeholders, using a virtual format that excluded many people without internet access. DGMT says this failed the constitutional duty to facilitate public involvement, particularly for vulnerable communities.

(ii) **Rationality and legality.** DGMT argues that the Legislature justified the revised hours as alignment with national norms and standards, yet enacted hours that materially departed from those standards and failed to distinguish between residential and business areas. It says the standards set minimum restrictions and allowed the Province to adopt shorter hours where local conditions warranted them. DGMT also challenges the sorghum beer provision because its wording is incomprehensible and conflicts with the ordinary off-consumption hours. These defects, it argues, breach the rule of law.

(iii) **Constitutional rights.** DGMT argues that the State must take reasonable and effective steps to protect dignity, freedom from violence, an environment not harmful to health or wellbeing, access to health care, and children's protection from maltreatment, neglect, abuse or degradation. Relying on expert evidence about alcohol-related harm and the effects of trading hours, it says the challenged provisions fail those duties in the Northern Cape context. DGMT contends that, by permitting these trading hours, the Legislature failed to take reasonable and effective measures to protect people's constitutional rights against alcohol-related harm, including harm caused by the drinking of others.

What the High Court decided

On 17 April 2026, the Northern Cape High Court declared the entire Act unconstitutional because the Legislature had failed to facilitate meaningful public involvement. It also found the sorghum beer provision legally defective and the general on-consumption hours irrational in light of the Legislature's stated aim of aligning them with national norms and standards. However, it rejected DGMT's separate Bill of Rights challenge. The declarations of invalidity require Constitutional Court confirmation before taking effect.

The proposed practical outcome

DGMT seeks invalidity confined to the challenged provisions, with no retrospective effect. DGMT asks the Court to suspend the declaration of invalidity for 24 months to allow the NCPL to remedy the defects, with revised trading hours applying until corrective legislation comes into operation. If the defects are not remedied within 24 months, those revised hours would remain in force until amended or replaced. The proposed changes include midnight closing for on-consumption sales, including nightclubs; no Sunday off-consumption sales; and correction of the sorghum beer provision. The first four respondents support limited confirmation and this proposed remedy.

The outstanding appeal and wider significance

DGMT asks the Constitutional Court to uphold its Bill of Rights challenge in addition to confirming invalidity on the other grounds. The first four respondents argue that the appeal would have no practical effect if confirmation and the proposed remedy are granted, and leave the issue to the Court. A ruling on the State's duties to protect people from alcohol-related harm could guide liquor lawmaking nationally. The Court must still decide whether to grant the requested relief.