

(13 February 2015 – to date)

LIQUOR ACT 59 OF 2003

(Gazette No. 26294, Notice No. 539 dated 26 April 2004. Commencement date: 13 August 2004 [Proc. No. 43, Gazette No. 26673])

NATIONAL LIQUOR NORMS AND STANDARDS

Government Notice R85 in Government Gazette 38459 dated 13 February 2015. Commencement date:
13 February 2015.

I, Dr Rob Davies, the Minister of Trade and Industry, hereby in terms of the Liquor Act, 2003, (Act No. 59 of 2003), and after consultation with National Liquor Policy Council make the National Liquor Norms and Standards, 2014 as set out in attached Schedule.

The National Liquor Norms and Standards will come into effect on the date of publication.

Where national and provincial regulations are not aligned to the Norms and Standards such that the two are contradictory, the National Liquor Norms and Standards should prevail.

(Signed)

DR ROB DAVIES, MP

MINISTER OF TRADE AND INDUSTRY

DATE: 8/12/14

**NORMS AND STANDARDS
IN TERMS OF THE LIQUOR ACT, 59 OF 2003**

FOR PUBLICATION

Adopted on 05 September 2014

Prepared by:

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1. INTRODUCTION

- 1.1 The preamble, section 2 and section 39 of the Liquor Act, 59 of 2003 ("Liquor Act, 2003") set the tone for Norms and Standards for the liquor industry. These Norms and Standards were developed and presented before the National Liquor Policy Council ("NLPC") and consulted on in different provinces at organised public workshops.
- 1.2. The Norms and Standards were published in the following government **Gazette no: 307110** and **37322** respectively for further public consultation. After the consultation period, inputs from all stakeholders were considered and incorporated into the final document where applicable. Following this process the Norms and Standards were presented before NLPC on 5 September 2014 and were adopted for implementation.
- 1.3. 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 amendments to the respective legislation to achieve consistency in respect of the application of the Norms and Standards.
- 1.4. All other Norms and Standards within the current legislative framework must be implemented through the review of regulations, rules and conditions of licences.

2. BACKGROUND

- 2.1. The mandate to develop Norms and Standards is derived from the preamble, section 2 and section 39 of the Liquor Act, 2003. Norms and Standards were developed and presented before the NLPC, and consulted on in different provinces at organised public workshops. After the consultation period, inputs from all stakeholders were considered and integrated into the final document where applicable.
- 2.2. The Norms and Standards address issues within the current legislative framework such as standards necessary harmonisation of legislation, age verification, licensing conditions, structural requirements e.g. ablution facilities, safety and evacuation measures and norms relating to trading hours.
- 2.3 The Norms and Standards that require amendment of legislation have been included in the draft policy document.

3. PURPOSE

3.1. The purpose of the Norms and Standards is:

3.1.1. to ensure that liquor regulation and practices in the Republic are harmonised;

3.1.2. to facilitate effective and uniform enforcement of liquor laws by various enforcement authorities;

3.1.3. to ensure consistency in the application of liquor laws throughout the Republic; and

3.1.4. to reduce the socio-economic and other costs of alcohol abuse by reducing access to and the availability of liquor.

3.2. These Norms and Standards will ensure consistency and certainty in how liquor laws are implemented by various liquor authorities. It will further ensure that all manufacturers, distributors and retailers in all provinces operate within clear and coherent parameters.

3.3. The Norms and Standards are to be implemented and apply to all existing and future premises, which are licensed to manufacture, supply and/or sell liquor.

3.4. The Norms and Standards that require legislation amendments should be taken up by relevant provincial governments to effect such changes in their provincial legislation.

3.5. Failure by a licensee to observe the mandatory licensing conditions prescribed by the relevant liquor authority will lead to the suspension or termination of the liquor license, as the case may be. Further, 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 should prevail.

4. NATIONAL NORMS AND STANDARDS

4.1. Agreement on the ultimate date for harmonization of provincial legislation with the Liquor Act, 2003

4.1.1. The Liquor Act, 2003 came into law on 26 April 2006 and one of its objectives is to establish National Norms and Standards in order to maintain economic unity within the liquor industry. The Liquor Act, 2003 also provides the much needed aligned legal framework through which the regulation of the liquor industry should eventually move from the old and fragmented liquor regulation framework under the Liquor Act 27 of 1989 ("Liquor Act, 1989").

- 4.1.2. Schedule 1 of the Liquor Act, 2003 confirms that the Liquor Act, 1989 shall remain in force within a province until such date as determined in accordance with sub-items (2) and (3) and declared by notice in the Gazette.
- 4.1.3. Considering that almost ten years have passed since the Liquor Act, 2003 came into law, it has become imperative for purposes of effective and efficient liquor regulation that South Africa operates from a harmonised legal framework and that the old way of regulating liquor is totally eradicated.
- 4.1.4. For this purpose, all provincial liquor legislation must be harmonised with the Liquor Act, 2003. 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.
- 4.1.5. The national and provincial departments responsible for liquor regulation should work together to ensure that the drafting of legislation in those provinces that still operate in terms of the old legislation takes place without delay in order to meet this deadline.

4.2. Age Verification

- 4.2.1. The licensee, manager or any other person dispensing liquor at the premises must take steps to ensure verification of the age of any person who appears to be under the age of eighteen (18) years by requesting an identity document, passport or drivers' license in order to verify the person's age before any liquor may be sold or supplied to them. It is an offence for a licensee, manager or any other person dispensing liquor to sell to a minor, and any contravention will be punishable. Repeat offenders' licenses may be suspended or terminated, as the case may be depending on the provisions of the provincial or national legislation.
- 4.2.2. It is also an offence for a person under the age of eighteen (18) years to present false evidence of their age in order to access liquor or enter a liquor premises. A person under the age of 18 years accompanied by an adult may be allowed access to the liquor-licensed restaurant, but no alcohol beverage shall be served to such a minor.
- 4.2.3. Liquor must not be sold or supplied to any person who refuses to provide identification when requested by a licensee for purposes of verifying the person's age. On refusal to provide identification it must be deemed that the person is under the age of eighteen (18) years and does not qualify to purchase or consume liquor. Such person must be informed to leave the liquor premises immediately.

4.3. Secondary supply of liquor to a minor

- 4.3.1. It is an offence for an adult to supply liquor to a person under the age of eighteen (18) years.
- 4.3.2. It is also an offence for any person to purchase liquor for or on behalf of a person who is under the age of eighteen (18) years.

4.4. Sale or supply of liquor to intoxicated persons

4.4.1 The licensee, manager or any person in charge of the premises must not sell or supply liquor to any person who already appears intoxicated. To do so is an offence and repeat contravention would lead to suspension or termination of the liquor license, as the case may be depending on the provisions of the Provincial or National legislation.

4.4.2 The following are some of the common signs of visible intoxication:

4.4.2.1 slurred speech

4.4.2.2 move in a swaying manner or difficulty walking straight

4.4.2.3 becoming physically violent

4.4.2.4 becoming loud, boisterous and disorderly

4.5. Payment of Income Tax

4.5.1. All registrants or license holders are required to comply with the Income Tax Act and Customs and Excise Duties Act, or any other applicable tax laws.

4.5.2. A copy of a valid tax clearance certificate issued by South African Revenue Services ("SARS") must accompany application for registration and/or license of the registrant as a mandatory requirement. Such copy must be certified and the certification stamp date must not be older than 3 months. This is also a mandatory requirement for all renewal applications.

4.5.3. Tax clearance certificates are not transferable with liquor licenses but apply only in respect of the person or entity to which it was issued.

4.6. Police Clearance Certificate

All registrants or managers of liquor premises must ensure a Police Clearance certificate issued by the South African Police Service accompanies their applications.

4.7. Provision of free drinking water

Free drinking water, which includes tap water, must be made easily available at all on-consumption liquor outlets to the patrons.

4.8. Provision of ablution facilities for patrons

Prepared by:

All on-consumption outlets must provide ablution facilities for each gender and cater for people with disabilities at no additional cost to the patrons.

4.9. Free issue condoms

The licensee, manager or any person in charge of the on consumption premises must take steps to ensure that free issue condoms are easily available in an easily accessible area at the liquor premises at all times.

4.10. Liquor premises must have safety and evacuation measures

4.10.1. The licensee must provide confirmation that the liquor premises to be licensed have complied with the basic safety and evacuation measures as prescribed by relevant legislation and/or municipal by-laws.

4.10.2. Existence of safety and evacuation measures also forms part of the mandatory conditions for the granting or renewal of liquor licenses. All undertakings on the application form for a licence must be done under oath for this requirement to be met.

4.10.3. A liquor premise also includes premises to which a special liquor license has been issued and must remain so for the duration of the special license.

4.11. Liquor premises should be weapon free

Right of admission to liquor premises is reserved and no weapons or sharp objects are permitted inside on-consumption liquor premises.

4.12. Noise; nuisance and pollution

4.12.1. The licensee must take all reasonable steps to ensure that the noise level from the liquor premises is not causing unacceptable disturbance or nuisance to the neighbours or surroundings at all times.

4.12.2. The licensee remains liable and responsible for all land pollution and littering within the liquor premises. The licensee is also responsible for all land pollution and littering outside the liquor premises flowing from the licensee's business. Liquor premises and surrounding areas must be kept clean at all times.

4.12.3. There must be no loitering by patrons outside the on-consumption liquor premises and all sales and consumption of liquor shall be confined to the liquor premises.

4.13. Record keeping

Prepared by:

4.13.1. A distribution license holder must keep records of all sales made. This must be in a written or electronic form; and must contain the following information:

4.13.1.1. Proof of registration in terms of the Liquor Act, 2003; Liquor Act, 1989 or in terms of any relevant legislation;

4.13.1.2. Identity document and any registration document if it is a business entity;

4.13.2. An off-consumption bottle store license holder must keep a record for all sales of more than twenty-five (25) litres to any unlicensed person. This must be in a written or electronic form; and must contain the following information:

4.13.2.1. full names, and address of the purchaser;

4.13.2.2. the kind and quantity of the liquor supplied;

4.13.2.3. the purchase prices paid; and

4.13.2.4. reasons for such purchase.

4.13.3. All the sales records for distribution license holders and off-consumption license holders' sales over the threshold of 25 litres must be kept for a period of 5 years from the date of the sale.

4.14. Uniform Trading Hours

4.14.1. Setting of trading hours by the liquor authorities and municipalities is very important in the control of sale and supply of liquor in South Africa. Uniformity in terms of trading hours is also necessary throughout the country at all spheres of government.

4.14.2. The set minimum standards of trading hours are as follows and are applicable to municipal areas where by-laws are not enforced:

TYPE	DAYS	HOURS
1. Manufacturers:		
All Manufactures	7 days a week	24 hours for both macro and micro
Tasting	Monday – Sunday including Public Holidays	10:00 – 18:00
2. Distribution		
Distribution	Monday – Saturday	06:00 – 18:00
	Sundays including Public Holidays	09:00 – 17:00

TYPE	DAYS	HOURS
3. Off Consumption (Business and Residential zoned):		
Off-consumption licenses	Monday – Saturday	09:00 – 20:00
	Sundays including Public Holidays	09:00 – 17:00
4. On Consumption (Business Zone):		
Other on-consumption licenses	Monday – Sunday	10:00 – 00:00
Night Club	Monday – Sunday	18:00 – 06:00
5. On Consumption (those in residential areas):		
Other on-consumption licenses	Monday – Saturday	10:00 – 21:00
	Sundays	10:00 – 17:00
Night Club	Monday – Saturday	18:00 – 06:00
	Sundays	18:00 – 00:00
Accommodation	Monday – Sundays	10:00 – 00:00
6. Special events:		
Business zone	On the day of the event	10:00 – 00:00
Residential area	On the day of the event	10:00 – 22:00

5. GENERAL PROVISIONS

- 5.1. The National Norms and Standards are additional to any other existing conditions outlined in the Liquor Act, 59 of 2003 and any Provincial or relevant statute. They will apply automatically to all new applications or renewed licenses.
- 5.2. A distribution license holder must not sell liquor to any unlicensed persons.
- 5.3. An on-consumption license holder must not sell liquor for take away or consumption off the licensed premises.
- 5.4. An off-consumption license holder must sell liquor only to the public not to any licensed or unlicensed persons for business purposes.
- 5.5. The manufacturing, distribution and retail of Liquor products must comply with all relevant legislations as and when amended. This shall include:
- 5.5.1. Liquor Act 59 of 2003;
- 5.5.2. Liquor Products Act 60 of 1989;
- 5.5.3. Counterfeit Goods Act 37 of 1997;
- 5.5.4. Foodstuffs, Cosmetics and Disinfectant Act No. 91 of 1964;

5.5.5. Consumer Protection Act No. 68 of 2008;

5.5.6. Provincial Liquor Acts; and

5.5.7. Any other relevant legislation.

6. ADOPTION

These Norms and Standards were adopted by the National Liquor Policy Council on 05 September 2014 for implementation throughout the Republic.

(Signed)

MEC Lebogang Maile

Gauteng

19/12/2014

(Signed)

MEC Wendy Nelson

North West

(Signed)

MEC Eric Kholwane

Mpumalanga

16/01/2015

(Signed)

MEC Seaparo Sekwati

Limpopo

19/12/2014

(Signed)

MEC Mosebenzi Zwane

Free State

30/01/2015

(Signed)

MEC John Block

Northern Cape

21/01/2015

(Signed)

MEC Mike Mabuyakhulu

Kwa-Zulu Natal

20/01/2015

(Signed)

MEC Sakhumzi Somyo

Eastern Cape

26/01/2015

(Signed)

MEC Alan Winde

Western Cape

16/12/2014

(with hand written note)