

# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA

Vol. 561

Pretoria, 30 March  
Maart 2012

No. 35207

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## GENERAL NOTICE

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### NOTICE 278 OF 2012 LIQUOR ACT, 59 OF 2003

#### DRAFT AMENDMENTS TO THE NATIONAL LIQUOR REGULATIONS, 2004

I, Dr Rob Davies, the Minister of Trade and Industry hereby, in terms of section 42 of the Liquor Act, 2003 (Act No. 59 of 2003), intend to make amendments to the National Liquor Regulations, 2004 as outlined in the Schedule.

Interested persons may submit written comments on the proposed regulations by 01 / 06 / 2012 to:

The Director-General, Department of Trade and Industry

Private Bag X 84

Pretoria

0001

or

77 Meintjies Street

Block B, 1st Floor

Sunnyside

Pretoria

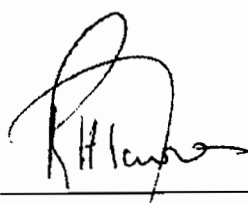
Fax No: 012 394 2951

Email: [TRMabirimisa@thedti.gov.za](mailto:TRMabirimisa@thedti.gov.za)

For Attention: Tshililo Mabirimisa; or

Email: [L.Sopela@thedti.gov.za](mailto:L.Sopela@thedti.gov.za)

For Attention: Lonwabo Sopela



**DR ROB DAVIES (MP)**

**MINISTER OF TRADE AND INDUSTRY**

**DATE: 8/3/12**

**GENERAL EXPLANATORY NOTE:**

[ ] Words in bold typed in square brackets indicate omissions from existing enactments.

— Words underlined with a solid line indicate insertions in existing enactments.

**SCHEDULE****Amendment of regulation 8 of Regulations**

Regulation 8 of Regulations is hereby amended by the substitution for regulation 8 of the following regulation:

**“Form of Notices and applications**

(8) Whenever a notice or application is required in terms of the Act, or an item of these Regulations, **[shown in column 1 of Table NLA 2, for a purpose listed in column 2 of that Table, the document]** such a notice or application must be substantially in the prescribed manner and form. **[form of the annexure listed opposite that section number in column 3 of that Table, and must be produced subject to any conditions listed opposite that section number in column 4 of that Table.]”.**

**Amendment of regulation 9 of the Regulations**

Regulation 9 is hereby amended by the substitution in sub-regulation (1) of the following regulation:

“(1) Whenever the Minister or National Liquor Authority is required to issue a Certificate, Notice or Receipt in terms of the Act, or an item of these Regulations,

**[shown in column 1 of Table NLA 3, for a purpose listed in column 2 of that Table, the document] such certificate, notice or receipt must be substantially in the prescribed manner and form [of the annexure listed opposite that section number in column 3 of that Table, and must be produced subject to any conditions listed opposite that section number in column 4 of that Table].”.**

### **Amendment of regulation 10 of the Regulations**

Regulation 10 is hereby amended by the substitution for regulation 10 of the following regulation:

“(10) The national register to be maintained in terms of section 23 must contain, at a minimum, the following details in respect of every registration issued nationally or provincially:

**[(a) name of the regulatory authority that issued the registration;**

**(b) date on which the registration was granted, and a synoptic history of the dates**

**and nature of any change in the registration;**

**(c) name of the registered person, including any alternative trade name used in**

**respect of the registered activities;**

**(d) the activities permitted by the registration;]**

**(e) the registered person’s details, principal place of business, the provinces and**

**municipalities in which the address of any premises at or from which the registered activities may take place;**

**[(f) any conditions attached to the registration;**

**(g) the dates and summary details of any—**

**(i) complaints against the registered person;**

- (ii) notices of non-compliance issued to the registered person;**
- (iii) compliance certificates issued to the registered person;**
- (iv) suspension of registration; and**
- (v) prosecutions and convictions against the registered person in terms of the Act, or any law mentioned in section 19;**
- (h)* the dates and details of any transfers of the registration;
- (i)* the dates and details of any—
  - (i) notice given by the registered person in terms of the Act; and
  - (ii) report filed by the registered person in terms of the Act;
- (j)* the dates and details of cancellation of the registration.”.

#### **Amendment of regulation 11 of the Regulations**

Regulation 11 of the Regulations is hereby amended by the substitution for sub-regulation (2) of the following sub-regulation:

“(2) **[An]** A non-refundable application fee must be paid at the same time that the application is filed: provided that such fee shall be refundable if the application is not successful owing to the reason that the National Liquor Authority does not have jurisdiction to entertain such application.”.

#### **Amendment of regulation 13 of the Regulations**

Regulation 13 of the Regulations is hereby amended by-

(a) the substitution for sub-regulation (1) of the following sub-regulation:

“(1) A person [**wishing**] who wants to be registered in terms of Section 11 must file Form NLA 1 on the last Friday of any month or if such a Friday is a public holiday, on the next Friday thereafter which is not a public holiday and such person [**which**] must-

- (a) satisfy all the filing instructions set out in that Form: and
- (b) have attached to it all the documents required by those instructions.”;

(b) the substitution in sub-regulation 2 for paragraph (a) of the following paragraph:

“(a) paid the prescribed fee [**required fees**] to the satisfaction of the National Liquor Authority and such proof is attached to the application form.”;

(c) the deletion in sub-regulation (2) of the whole of paragraph (b);

(d) the substitution for sub-regulation (4) of the following sub-regulation:

“(4) If, as a result of information available to it, the National Liquor Authority believes that the applicant has underestimated the required fees payable with an application, the National Liquor Authority may issue a letter [**of Demand for**] requesting Additional Fees [, **in form of NLA 2.**].”;

(e) the addition of the following sub-regulation after sub –regulation (4):

(5) (a) An application for registration in terms of sub-regulation (1) must be made in the form of Form NLA 1 and NLA 1/1.

(b) An application for registration in terms of sub-regulation (1) must be accompanied by—

(aa) a certified copy of the plan of the premises as approved by a local authority and on A4 or A3 standard paper, clearly showing :

(i) the proposed premises in respect of which the application relates to in colour;

(ii) clearly demarcated manufacturing area or distribution area;

(iv) all doors, windows and counters (where applicable) and

means

of internal and external communication;

(v) the streets and places to which such means of external communication lead;

(vi) where liquor will be stored on the proposed licensed premises;

(vii) an outline of every building on the erf to which the application relates;

(viii) other licensed premises on the erf;

(ix) the uses of all the buildings on the erf; and

(x) the date of preparation and the name and address of the person

who prepared the plan;

(bb) a zoning certificate for industrial purpose issued by the local authority;

(cc) in a separate document, a description of the premises with reference to the construction, layout, furnishing, fixtures, fittings and floor covering;

(dd) colour photographs showing the completed internal and external features of the premises or, where the application relates to incomplete premises, the stage of completion of the premises;

(ee) comprehensive written representations in support of the application;

(ff) any determination, consent, approval or authority required by the Act;

(gg) proof that the applicable application fee set out in Item 1 of Annexure 1



has been deposited into the bank account of the Authority;

(hh) a certified copy of identity document of the applicant and South African police Services clearance certificate issued not more than three months from the date of application, in the case of a juristic person, copies of the relevant registration documents issued by the relevant authority within three months from the date of application, indicating the financial interest of all members, shareholders, partners or beneficiaries;

(ii) a Tax clearance certificate issued by the relevant tax authority within three months from the date of application; and

(jj) such other documents as may be specified on the application form and in the Act, or as may be requested by the National Liquor Authority.”.

#### **Amendment of regulation 14 of the Regulations**

Regulation 14 of Regulations is hereby amended by-

(a) the deletion in sub-regulation (1) of the whole of paragraph (a);

(b) the substitution in sub-regulation (1) for paragraph (b) of the following paragraph:

“(b) proceed to consider the application for registration or issue a letter requesting additional or corrected information.”;

(c) the addition in sub-regulation (1) of the following paragraph:

“(c ) may order an inspection of the premises which are subject of the application to be conducted by an inspector or a member of the South African Police Service which report must be furnished within a reasonable time which time shall not exceed a period of 30 days.”;

(d) the substitution for sub-regulation (2) of the following sub-regulation:

“(2) The applicant must respond within 14 business days after receiving a **[form referred to in sub-regulation 1(a)]** letter referred to in sub-regulation (1)(b).”; and

(e) the deletion of sub-regulation (5).

### **Addition of regulation 21, 22 and 23**

The following regulations are hereby added in the Regulations after regulation 20:

#### **Trading hours**

21. (1) Subject to conditions imposed by the National Liquor Authority a registrant may conduct business as a registered distributor during such trading hours as the National Liquor Authority may determine: Provided that the trading hours imposed by the National Liquor Authority may not supersede the hours determined by the municipality through a by-law or notice.

(2) Subject to conditions imposed by the National Liquor Authority, and if the municipality has not determined the trading days and hours, a registrant may conduct his business as a registered distributor on any day from Monday to Saturday between 08h00 and 20h00 except on a Public Holiday and a Sunday.

#### **Keeping of records**

22. (1) A registrant must at all times register and keep a record of any person or business entity purchasing liquor.

(2) The record referred to in sub-regulation (1) must be in a written or electronic form; and must contain the following information-

- (i) full names, and address of the purchaser supported by proof of residence, identity document and any registration document if it is a business entity issued within three months from the date of purchase;
- (ii) full description of the place to which liquor is to be delivered;
- (iii) the registration number of the registered business;
- (iv) invoice numbers and dates of issue;
- (v) the kind and quantity of the liquor supplied; and
- (vi) the purchase prices paid.

### **Delivery of liquor**

23. (1) A person registered as a distributor of liquor shall not-

- (a) deliver or cause to be delivered any liquor from or by any vehicle or other vessel or induce any person to do so, unless before the dispatch of such liquor, that liquor was ordered and an invoice, containing the information prescribed in regulation 22(2), was made out in respect of the order, the original of which shall be retained on the premises from which the liquor is dispatched;
  - (b) convey or cause liquor to be conveyed in any vehicle or other vessel unless a copy of the invoice contemplated in (a), in respect of that liquor is retained in the vehicle or vessel during such delivery; or
  - (c) deliver liquor to an address not given in that invoice.
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