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GENERAL NOTICE

NOTICE 341 OF 2014

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

INVITATION FOR PUBLIC COMMENTS ON THE

DRAFT NOTICE DECLARING INSPECTORS APPOINTED IN TERMS OF SECTION 81 OF THE KWAZULU-NATAL LIQUOR LICENSING ACT, 2010 AND SECTION 73(4) OF THE WESTERN CAPE LIQUOR ACT, 2008, AS PEACE OFFICERS IN TERMS OF SECTION 334 OF THE CRIMINAL PROCEDURE ACT, 1977

1. INVITATION

- 1.1 The Department of Justice and Constitutional Development hereby invites interested parties to submit written comments on the draft Notice in terms of which inspectors appointed in terms of section 81 of the KwaZulu-Natal Liquor Licensing Act, 2010 (Act No. 6 of 2010) and section 73(4) of the Western Cape Liquor Act, 2008 (Act No. 4 of 2008), are declared as peace officers, in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). The draft Notice is attached as Annexure A.
- 1.2 The comments on the draft Notice must be submitted not later than **6 June 2014**, marked for the attention of **Ms T Skhosana**, and –
- (a) if it is forwarded by post, be addressed to -
The Director-General: Justice and Constitutional Development
Private Bag X81
Pretoria
0001
 - (b) if delivered by hand, be delivered at –
SALU Building
316 Thabo Sehume Street
Pretoria
 - (c) if it is delivered by email, be emailed to thskhosana@justice.gov.za
 - (d) if it is faxed, be faxed to **086 648 7875**.
- 1.3 Ms T Skhosana at (012) 406 4769 or Ms I Botha at 012 406 4756, can be contacted for further information.

2. BACKGROUND NOTE

- 2.1 Section 334 of the Criminal Procedure Act, 1977, empowers the Minister, by Notice in the *Gazette*, to declare a person, by virtue of his or her office, as a peace officer for purposes of exercising certain powers defined in that Notice. The section requires that the employer of the person declared as a peace officer in terms of this section must issue him or her with a certificate of appointment. The certificate must be issued before the person exercise the power conferred upon him or her in terms of the Notice. Section 334 further allows the

Minister to prescribe conditions which must be complied with before a certificate is issued, or any matter that must appear on the certificate. Where the person declared as a peace officer is employed by the State, the State shall be liable for any damages arising out of any conduct or omission by that person exercising any power conferred upon him or her in terms of the Notice.

- 2.2 Section 81 of the KwaZulu-Natal Liquor Licensing Act, 2010, provides that the Member of the Executive Council (MEC) may appoint inspectors to exercise powers in terms of the Act. The section provides further that when exercising powers in terms of the Act, and once appointed as a peace officer in terms of a Notice referred to in section 334 of the Criminal Procedure Act, 1977, an inspector has the powers defined in the Notice. The MEC has, on the strength of section 81 requested the Minister to declare inspectors appointed in terms of that section, as peace officers.
- 2.3 Section 73(4) of the Western Cape Liquor Act, 2008, provides that the Western Cape Liquor Authority (Authority) may appoint any person employed by the Board as an inspector for the purposes of the Act. Section 74(5) provides that when appointing an inspector, the Authority must issue a certificate of appointment. The Authority requested the Minister to declare inspectors appointed in terms of that Act as peace officers in terms of section 334 of the Criminal Procedure Act, 1977.

Annexure A



GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R.

2014

DECLARATION OF PEACE OFFICERS IN TERMS OF SECTION 334 OF THE CRIMINAL PROCEDURE ACT, 1977 (ACT NO. 51 OF 1977)

I, Jeffrey Thamsanqa Radebe, Minister of Justice and Constitutional Development in terms of —

1. section 334(1)(a) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), hereby declare that every person who, by virtue of his or her office, falls within a category as defined in Column 1 of the Schedule to this notice, shall, within the area specified in Column 2 of the Schedule, be a peace officer for the purpose of exercising, with reference to the offences specified in Column 3 of the Schedule, the powers defined in Column 4 of the Schedule;
2. section 334(3)(a) of the Criminal Procedure Act, 1977, hereby prescribe that —
 - (a) a certificate of appointment referred to in section 334(2)(a) of the Criminal Procedure Act, 1977, shall only be issued to a person referred to in Column 1 of the Schedule, if the employer of that person has been furnished with a certificate issued by the National Commissioner of the South African Police Service;
 - (b) it must be stated in the certificate contemplated in paragraph (a) that, in the opinion of the National Commissioner, such person is competent to exercise the relevant powers as defined in Column 4 of the relevant Part of the Schedule; and
 - (c) for the purposes of the issuing of a certificate by the National Commissioner, the following criteria shall be considered:
 - (i) The previous criminal convictions of the applicant;
 - (ii) whether the person has been declared unfit to possess a firearm as contemplated in the Firearms Control Act, 2000 (Act No. 60 of 2000), or other relevant legislation; and
 - (iii) the training undergone by the applicant with regard to the powers to be exercised;
3. section 334(3)(b) of the Criminal Procedure Act, 1977, prescribe that the following information shall appear in or on the certificate of appointment referred to in section 334(2) of the Criminal Procedure Act, 1977:
 - (a) The full name of the person so appointed;
 - (b) his or her identity number;
 - (c) his or her signature;
 - (d) his or her photograph;
 - (e) a brief description of the capacity in which he or she was appointed;
 - (f) the name of the employer who made the appointment; and
 - (g) the signature and official stamp of the employer or responsible person.

MR J T RADEBE, MP

MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

SCHEDULE

Column 1	Column 2	Column 3	Column 4
<p>Inspectors appointed in terms of section 73(4) of the Western Cape Liquor Act, 2008 (Act No. 4 of 2008).</p> <p>Inspectors appointed in terms of section 81(1)(a) of the KwaZulu-Natal Liquor Licensing Act, 2010 (Act No. 6 of 2010)</p>	<p>The Western Cape Province</p> <p>The KwaZulu-Natal Province</p>	<p>Any offence provided for in terms of the Western Cape Liquor Act, 2008 (Act No. 4 of 2008).</p> <p>Any offence provided for in terms of the KwaZulu-Natal Liquor Licensing Act, 2010 (Act No. 6 of 2010).</p>	<p>(i) The powers conferred upon a police official or a peace officer in terms of Chapter 2 of the Criminal Procedure Act, 1977.</p> <p>(ii) The power to arrest a person without a warrant in terms of section 40(1) of the Criminal Procedure Act, 1977.</p> <p>(iii) The powers conferred upon a peace officer under section 41(1) of the Criminal Procedure Act, 1977.</p> <p>(iv) The execution of warrants of arrest in terms of section 44 of the Criminal Procedure Act, 1977.</p> <p>(v) The power to issue a written notice in terms of section 56 of the Criminal Procedure Act, 1977.</p> <p>(vi) The power to issue a written notice in terms of section 341</p>

of the Criminal Procedure Act, 1977.			
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- Publications Enquiries : 012 748 6052/6053/6058 GeneralEnquiries@gpw.gov.za
- Maps : 012 748 6061/6065 BookShop@gpw.gov.za
- Debtors : 012 748 6060/6056/6064 PublicationsDebtors@gpw.gov.za
- Subscription : 012 748 6054/6055/6057 Subscriptions@gpw.gov.za
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