
GOVERNMENT NOTICE

DEPARTMENT OF TRADE AND INDUSTRY

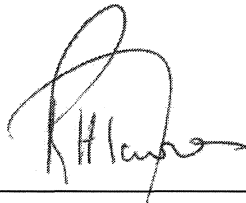
No. R. 928

3 December 2013

LIQUOR ACT, 59 OF 2003

LIQUOR AMENDMENT REGULATIONS, 2013

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), make the following amendments to the National Liquor Regulations, 2004 as outlined in the Schedule.



DR ROB DAVIES, MP

MINISTER OF TRADE AND INDUSTRY

18 / 11 / 2013

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**

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

“8. Form of notices and applications

Whenever a notice or application is made**[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 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

2. 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 in the prescribed manner and form and must be issued

within 90 days from date of receipt: provided that all the documents were submitted by the applicant upon application[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

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

“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; and
- (j) the dates and details of cancellation of the registration.”.

Amendment of regulation 11 of the Regulations

4. 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

5. 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 intends to be registered for the first time as a new registrant in terms of Section 11, must file a fully completed 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-“.

(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 proof of such payment is attached to the application form”.

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

“(b) fully completed form NLA 1**[responded, to the satisfaction of the National Liquor Authority, to any-**

- (i) Demand for additional, in the form NLA 2, issued to it by the National Liquor Authority in terms of sub-Regulation (4) or Regulation 14 (1);
- (ii) Notice of Incomplete Filing in Form NLA 3 issued to it by the National Liquor Authority in terms of Regulation 14 (1) or (4); or
- (iii) Demand for Corrected Information in Form NLA 4 issued to it by the National Liquor Authority in terms of Regulation 14 (1) or (5) and
- (iv) either not taken on review, or confirmed on review.].”.

(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 prescribed **[required]** fees payable with an application and did not provide relevant information, the National Liquor Authority may issue a letter [Demand for]requesting Additional Fees and any relevant information:provided that if a person fails to comply with such letter within seven days (7) of receiving it, such application shall be rejected”.[, 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 Form NLA 1.

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

(aa)a business zoning certificate for industrial purposes or a consent letter issued by the relevant municipality;

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

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

(dd) valid proof that the prescribed application fee set out in Item 1 of Annexure 1 has been deposited into the bank account of the Department of Trade and Industry;

(ee) a valid certified copy of identity document of the applicant if the applicant is a natural person, or certified copy of a passport if the applicant is a foreigner, trading business permit for foreign nationals and South African Police Services clearance certificate issued not more than three months from the date of application;

(ff) If the applicant is a juristic person, valid copies of registration documents issued by Companies and Intellectual Property Commission established in terms of Companies Act, 2008 (Act 71 of 2008), or any other relevant registration authority, indicating the financial interest of all members, shareholders, partners or beneficiaries and certified copies of the identity documents of such members, shareholders, partners or beneficiaries as the case may be;

(gg) a valid Tax clearance certificate if applicant is a juristic person issued by South African Revenue Service within twelve months from the date of application, or proof of tax compliance for natural person issued by South African Revenue Service within twelve months from the date of application;

(hh) 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;

(ii) verification certificate issued in terms of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).

Amendment of regulation 14 of the Regulations

6. Regulation 14 of the Regulations is hereby amended by the substitution for regulation 14 of the following regulation:

“[Review of notifications] Consideration of applications

- (1) Within 14 business days after receiving an application in terms of section 11, the National Liquor Authority must **[either];**
 - [(a) issue a –**
 - (i) Demand for Additional Payment in Form NLA 2; or**
 - (ii) Notice of Incomplete Filing in Form NLA 3; or**
 - (iii) Demand for Corrected Information in Form NLA 4; or]**
 - (b) proceed to consider the application for registration or issue a letter requesting additional or corrected information; or
 - (c) may order an inspection of the premises to be conducted by an inspector within 30 days of receipt of the application: Provided that an inspection report must be furnished within a reasonable time, which shall not exceed a period of 30 days after inspection;
- (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).
- [(5) If, at any time, the National Liquor Authority believes that a document filed in respect of an application contains incorrect information, the National Liquor Authority may issue a Demand for Corrected Information in Form NLA 4 to the person that filed that document, and that person must provide the information within 14 days.]”.**

Amendment of regulation 16 of the Regulations

7. Regulation 16 of the Regulations is hereby amended by addition of the following sub-regulation after sub-regulation (4):-

‘(5)An application made in terms of sub-regulation (2) must be accompanied by-

(a) a business zoning certificate for industrial purposes or a consent letter issued by the relevant municipality;

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

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

(d) valid proof that the prescribed application fee set out in Item 1 of Annexure 1 has been deposited into the bank account of the Department of Trade and Industry;

(e) a valid certified copy of identity document of the applicant if the applicant is a natural person, or certified copy of a passport if the applicant is a foreigner , trading business permit for foreign nationals and South African Police Services clearance certificate issued not more than three months from the date of application;

(f) If the applicant is a juristic person, valid copies of registration documents issued by Companies and Intellectual Property Commission established in terms of Companies Act, 2008 (Act 71 of 2008), or any other relevant registration authority , indicating the financial interest of all members, shareholders, partners or beneficiaries and certified copies of the identity documents of such members ,shareholders, partners or beneficiaries as the case may be;

(g) a valid Tax clearance certificate if applicant is a juristic person issued by South African Revenue Service within twelve months from the date of application, or proof of tax compliance for natural person issued by South African Revenue Service within twelve months from the date of application;

(h) 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; and

(i) verification certificate issued in terms of the Broad-Based Black Economic Empowerment Act, 2003(Act No. 53 of 2003).

Addition of regulation 21, 22 and 23

8. 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 a relevant 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 09h00 and 18h00: Provided that manufacturing shall be done on daily basis for 24 hours.

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-
- (a) delivery address;
 - (b) original valid liquor license or certified registration certificate, certified not more than (3) three months ago;
 - (c) invoice numbers and dates of issue;
 - (d) the kind and quantity of the liquor supplied; and
 - (e) 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 sub-regulation 23(1) (a), in respect of that liquor is retained in the vehicle or vessel during such delivery; or
 - (c) deliver liquor to an address not indicated in that invoice”.

Transitional arrangements

9. Registrants registered before the coming into effect of this regulations must upon coming into effect of this regulations and when filling an annual information return file such return with the following information:

- (a) a business zoning certificate for industrial purposes or a consent letter issued by the relevant municipality;
- (b) any determination, consent, approval or authority required by the Act;
- (c) valid proof that the prescribed application fee set out in Item 1 of Annexure 1 has been deposited into the bank account of the Department of Trade and Industry;
- (d) a valid certified copy of identity document of the registrant if the registrant is a natural person, or certified copy of a passport if the registrant is a foreigner, trading business permit for foreign nationals and South African Police Services clearance certificate issued not more than three months from the date of filling;
- (e) If the registrant is a juristic person, valid copies of registration documents issued by Companies and Intellectual Property Commission established in terms of Companies Act, 2008 (Act 71 of 2008), or any other relevant registration authority, indicating the financial interest of all members, shareholders, partners or beneficiaries and certified copies of the identity documents of such members, shareholders, partners or beneficiaries as the case may be;
- (f) a valid Tax clearance certificate if registrant is a juristic person issued by South African Revenue Service within twelve months from the date of application, or proof of tax compliance for natural person issued by South African

Revenue Service within twelve months from the date of application;

(g) such other documents as may be specified in the Act, or as may be requested by the National Liquor Authority; and

(h) verification certificate issued in terms of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)

Short title and commencement

10. These Regulations shall be called National Liquor Amendment Regulations, 2013 and shall come into operation on the date of publication thereof.

REPUBLIC OF SOUTH AFRICA
NATIONAL LIQUOR AUTHORITY

FORM NLA 1
Application for Registration

Date: _____

To: THE MINISTER OF TRADE AND INDUSTRY

Please take notice that the applicant named below hereby applies to be registered in terms of the Liquor Act, 2003, as

_____ A Manufacturer

_____ A Distributor

_____ Both a Manufacturer and Distributor

APPLICANT'S DETAILS:

Name _____

Identity or registration number _____

Business name, if different _____

Registered office address and contact numbers

_____ Phone _____

Business address and contact numbers, if different

_____ Phone _____

Address of proposed registered activities

DESCRIPTION OF APPLICANT

If the applicant or proposed transferee is an individual, is that individual:

- (i) a minor _____ (yes/no)
- (ii) an unrehabilitated insolvent _____ (yes/no)
- (iii) committed in terms of the Mental Health Act, 1973 _____ (yes/no)
- (iv) a person who has been convicted of an offence as contemplated in section 11(2) (d) or (e) of the Liquor Act, 2003 _____ (yes/no).
- (v) person who has been convicted of an offence in terms of the liquor Act , No. 27 of 1989 and other related provincial liquor legislation. _____ (yes/no).

If the answer to any of the above is "yes", attach a sheet setting out full details.

If the applicant is not an individual, attach a sheet setting out the names of each person who has a controlling interest in, or is a director or board member, or main beneficiary or, the applicant or proposed transferee, and with respect to each such person, indicate, and provide full details if "yes" whether that individual is:

- (a) a minor _____ (yes/no)
 - (b) an unrehabilitated insolvent _____ (yes/no)
 - (c) committed in terms of the Mental Health Act, 1973 _____ (yes/no)
 - (d) person who has been convicted of an offence as contemplated in section 11(2) (d) or (e) of the Liquor Act, 2003 _____ (yes/no).
 - (e) person who has been convicted of an offence in terms of the liquor Act , No. 27 of 1989
-

DESCRIPTION OF ACTIVITIES

Kinds of liquor manufactured or distributed: _____

Premises from which liquor is manufactured or distributed, with reference to street, erf, farm number, town, city and province

Will you distribute liquor manufactured elsewhere? _____ (yes/no).

Will you distribute liquor across provincial boundaries? _____ (yes/no).

If yes, attach a sheet setting out full details.

I declare/affirm that the information furnished in this application, and in the documents attached to it is true.

Name (Applicant):.....Signature.....

Address (Applicant).....

Date:...../...../.....

INSTRUCTIONS

This form is prescribed for the use in terms of section 11 and 13 of the Liquor Act, 2003

Please also attach the following:

Annexure		Attached: Yes/No
A	A sheet setting out the name, race, gender, ID number and address of each person, including the applicant or proposed transferee who will have a financial interest in the business, and in each case the nature and extent of that interest.	
B	A sheet setting out the financial interest of the applicant or proposed transferee in the liquor industry within the Republic, and if the applicant or proposed transferee is not an individual, provide equivalent information with respect to each shareholder, member, partner or beneficiary of the applicant or proposed transferee.	
C	A sheet setting out separately the commitments made by the applicant or proposed transferee towards black economic empowerment, and combating alcohol abuse, including details of any relevant charters, or industry codes of conduct.	
D	A sheet describing in detail the extent to which your activities will affect new entrants to the industry, job creation, diversity of ownership, efficiency of operation, exports and competition within the industry.	
E	A sheet setting out the projected or actual turnover of activities relating to the application.	
F	The following as more fully set out in Regulation 13 (5) of the National Liquor Regulations, 2012:	
	a certified copy of the plan of the premises;	
	a zoning certificate;	
	a description of the premises;	
	colour photographs showing the internal and external features of the premises;	
	comprehensive written representations in support of the application;	
	a valid tax clearance certificate.	
G	Proof that the application fee has been paid to the account of the Department of Trade and Industry.	

PLEASE NOTE

If any of the information requested above is not attached, the application will not be considered.