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**GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**

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**DEPARTMENT OF TRADE AND INDUSTRY**

NO. XXX

30 SEPTEMBER 2016

**DRAFT LIQUOR AMENDMENT BILL, 2016****INVITATION FOR THE PUBLIC TO COMMENT ON THE DRAFT LIQUOR AMENDMENT BILL, 2016**

I, Dr Rob Davies, Minister of Trade and Industry, having obtained Cabinet approval, hereby publish the draft Liquor Amendment Bill for broader public comments.

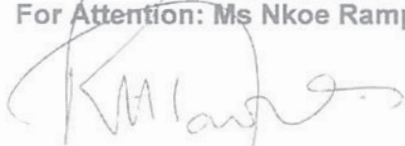
Interested persons may submit written comments on the proposed Amendment Bill not later than thirty (30) days from the date of publication of this notice to:

Director-General, Department of Trade and Industry  
Private Bag x84  
Pretoria  
0001

Or hand deliver to:

77 Meintjies Street,  
Block B, First Floor  
Sunnyside  
Pretoria

Tel No : 012 394 5573  
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Email : [NRamphele@thedti.gov.za](mailto:NRamphele@thedti.gov.za)  
**For Attention: Ms Nkoe Ramphele**



**Dr Rob Davies, MP**  
**Minister of Trade and Industry**

29 September 2016

**REPUBLIC OF SOUTH AFRICA**

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**LIQUOR AMENDMENT BILL**

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(Minister of Trade and Industry)

**GENERAL EXPLANATORY NOTE:**

- [        ]        Words in bold type in square brackets indicate omissions from existing enactments.
- \_\_\_\_\_        Words underlined with a solid line indicate insertions in existing enactments.

**BILL**

To amend the Liquor Act, 2003, so as to amend certain definitions; to provide for the restriction of advertising of liquor or methylated spirits; to provide for trading days and hours for the distribution and manufacturing of liquor or methylated spirits; to prohibit the supply of liquor or methylated spirits to persons under the age of 21; to provide for auxiliary conditions for granting of liquor license; to provide for the prohibition of trading in liquor within certain radius; to provide for the recognition and functions of persons designated as inspectors; to provide for the repositioning of the National Liquor Authority as the Regulator; to provide for establishment of an internal review mechanism; to provide for proximity location for manufacturing and distribution of liquor; to provide for the issuance of the Broad-Based Black Empowerment level of compliance and guidelines for combatting socio-economic harms caused by liquor abuse; to provide for certain new offences; and to provide for matters related thereto.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

**Amendment of section 1 of Act 59 of 2003 (hereinafter referred to as the principal Act")**

1. Section 1 of the principal Act is hereby amended by –
  - (a) the insertion after the definition of “person” of the following definition:

“**place of worship**’ means a specially designed structure or consecrated space where individuals or a group of people come to perform acts of devotion or religious services;”

**Amendment of section 9 of Act 59 of 2003**

2. Section 9 of the principal Act is hereby amended by –

(a) the substitution for subsection (1) of the following subsection:

“(1) A person must not advertise -

(a) any liquor or methylated spirits -

(i) in a false or misleading manner; or

(ii) in a manner which misrepresents the age of persons participating in the advertisement; or

**(iii) [in a manner]** intended to target or attract persons under the age of twenty one (21); or

(iv) if the content of the advertisement appeals to persons under the age of twenty one (21).”.

(b) the insertion after subsection (2) of the following subsections:

“(3) The advertisement of liquor is prohibited in public platforms in the following forms, but not limited to:

(a) billboards placed less than hundred (100) meters away from junctions, street corners or traffic circles;

(b) distribution of pamphlets containing liquor advertisement; and

(c) radio and television airing beyond the time slots, as prescribed by the

Minister.

(4) The liquor advertisement must reflect the harmful effects of liquor abuse.

(5) The Minister may, after consultation with the Council, relevant government departments and municipalities as the case may be, prescribe more restrictions on the provisions of subsection 3.

- (6) Any person who contravenes the provisions of section 9, commits an offence.”.

### **Amendment of section 10 of Act 59 of 2003**

**3.** Section 10 of the principal Act is hereby amended by -

- (a) the substitution for the heading of the following heading:

“Prohibition of supply of liquor or methylated spirits to **[minor]** persons under the age of twenty one (21);”.

- (b) the substitution for subsection (1), (2), (3), (4) and (5) of the following subsections respectively:

“(1) A person must not sell or supply liquor or methylated spirits to a **[minor]**

(a) person under the age of twenty one (21) years.”.

(2) Despite subsection (1), the parent, adult guardian of a **[minor]** person under the age of twenty one (21) years or a person responsible for administering a religious sacrament, may on occasion supply to **[that minor]** such a person, such **[a]** moderate quantity of liquor to be consumed by **[the minor]** such a person in the presence and under the supervision of that parent, guardian or other person;

(3) A person must take reasonable measures to determine accurately whether or not a person is **[a minor]** under the age of twenty one (21) years, before selling or supplying liquor or methylated spirits to **[that]** such person;

(4) A **[minor]** person under the age of twenty one (21) years must not make a false claim about his or her age in order to induce a person to sell or supply liquor or methylated spirits to him or her;

(5) A person must not make a false claim about the age of a **[minor]** person under the age of twenty one (21) years in order to induce a person to sell or supply liquor or methylated spirits to [the minor] such a person;”.

- (c) the substitution in subsection (6) for the words preceding paragraph (a) of the following words:

“(6) A **[minor]** person under the age of twenty one (21) years must not –;”.

#### **Amendment of section 11 of Act 59 of 2003**

4. Section 11 of the principal Act is hereby amended by –

- (a) the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) may apply to the **[Minister]** National Liquor Regulator, in the prescribed manner and form, to be registered as a manufacturer or distributor of liquor, or both; and”;

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

“(a) is **[a minor]** under the age of twenty one (21) at the date of submitting the application for registration.”.

#### **Amendment of section 12 of Act 59 of 2003**

5. Section 12 of the principal Act is hereby amended by -

- (a) the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“(1) The **[Minister]** National Liquor Regulator may – ”.

- (b) the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“(2) If an application complies with the provisions of this Act, the **[Minister]** National Liquor Regulator, after considering the application, must either –;”;

- (c) the substitution for subsection (3) of the following subsection:

“(3) If the **[Minister]** National Liquor Regulator refuses an application, the **[Minister]** National Liquor Regulator must give the applicant written reasons for the decision.”.

### **Amendment of section 13 of Act 59 of 2003**

6. Section 13 of the principal Act is hereby amended by –

(a) the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“(1) If the **[Minister]** National Liquor Regulator is required to register an application in terms of section 12, the **[Minister]** National Liquor Regulator must further consider the application, relating to the following criteria:

(b) the insertion after subsection (1) of the following subsection:

“(1)(A) The Minister shall prescribe -

- (a) the Broad-Based Black Economic Empowerment level of compliance to be met by the registrants; and
- (b) guidelines for combatting socio-economic harms caused by liquor abuse.”.

(B) Any registrant who fails to meet the level of compliance as prescribed by the Minister in terms of this section shall result in the suspension or revocation of the registration certificate by the National Liquor Regulator;”.

(c) the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

“The **[Minister]** National Liquor Regulator, having regard to the objects and purposes of this Act, **[the circumstances of the application, the declared wishes of the applicant in terms of section 11(1)(b) and the criteria set out in subsection (1)]** may- ”.

- (d) the substitution for subsection (4), (5), and (6) of the following subsections respectively:

“(4) In addition to the provisions of subsection (3), if an applicant has a director, member, trustees, partner, or member of its board or executive body who falls in the category of persons disqualified in terms of section 11(2), the **[Minister]** National Liquor Regulator may propose a condition designed to prevent that person from exercising any decision-making authority with respect to the proposed registered activities.

(5) If the **[Minister]** National Liquor Regulator proposes conditions on an applicant’s registration, the **[Minister]** National Liquor Regulator must inform the applicant of the proposed conditions, and the reasons for them in writing.

(6) An applicant who received a proposal of conditions may respond to the **[Minister]** National Liquor Regulator within -

- (a) 30 days from the date on which the applicant is informed of the proposal; or
- (b) such longer period as the **[Minister]** National Liquor Regulator may permit, on good cause shown.”.

- (e) the substitution in subsection (7) for paragraph (a) of the following paragraph:

“(a) consent to the conditions being imposed, the **[Minister]** National Liquor Regulator must register the applicant, subject only to the conditions as proposed; or”.

- (f) the substitution in paragraph (b) of subsection (7) for the words preceding subparagraph (i) of the following words:

“does not respond, or does responds but does not consent, to the proposed conditions, the **[Minister]** National Liquor Regulator must consider any response submitted by the applicant and may -;”,



(g) the substitution for subsection (8) of the following subsection:

- “(8) The **[Minister]** National Liquor Regulator must
- (a) provide written reasons for that decision if –
  - (h) the **[Minister]** National Liquor Regulator has refused to register the applicant; or
  - (ii) the **[Minister]** National Liquor Regulator has amended a previously proposed condition.”.

### **Insertion of section 13A in Act 59 of 2003**

7. The following section is hereby inserted in the principal Act after section 13:

#### **“13A Auxiliary conditions of registration**

- (1) When considering an application in terms of section 12 of the Act, the National Liquor Regulator must ensure no application is granted -
- (a) for areas not classified for purposes of trading in liquor,
  - (b) premises attached to petrol service stations; or
  - (c) premises near public transport facilities.

#### **Prohibition of trading in liquor within certain radius**

- (2) The manufacturing, distribution or retail sale of liquor in either rural or urban community is prohibited on any location that is less than five hundred (500) metres away from schools, place of worship, recreational facilities, rehabilitation or treatment centres, residential areas, public institutions and other like amenities.
- (3) Where such application is already registered, or in areas with the highest population density, the registrants shall –
- (a) comply with norms and standard as approved by the National Liquor Policy Council from time to time;
  - (b) comply with any registration conditions as imposed by the National Liquor Regulator.

- (4) Any person who contravenes the conditions stipulated in section 13A commits an offence and shall be liable to -
- (a) penalty, or
  - (b) suspension or revocation of registration certificate, or
  - (c) both penalty and suspension or revocation of registration certificate.”.

#### **Amendment of section 14 of Act 59 of 2003**

8. Section 14 of the principal Act is hereby amended by –

- (a) the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“(1) Upon registering an applicant, the **[Minister]** National Liquor Regulator must - ;”.

- (b) the substitution in subsection (4) for paragraph (e) of the following paragraph:

“(e) file any prescribed reports with the **[Minister]** National Liquor Regulator in the prescribed manner and form.”.

#### **Amendment of section 15 of Act 59 of 2003**

9. Section 15 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

- “(3) If a registered person acquires control over another registered person that holds a different category of registration, the registered persons must notify the **[Minister]** National Liquor Regulator in the prescribed manner and form.”.

#### **Amendment of section 16 of the Act 59 of 2003**

10. Section 16 of the principal Act is hereby amended by -

- (a) the substitution for subsection (1) of the following subsection:

- “(1) The **[Minister]** National Liquor Regulator may reconsider, and vary the conditions of registration of any registrant, in any of the following circumstances:
- (a) If the registrant has notified the **[Minister]** National Liquor Regulator of a material alteration contemplated in subsection (3);
  - (b) Upon request by the registrants submitted to the **[Minister]** National Liquor Regulator in the prescribed manner and form;
  - (c) If at least five years have passed since the **[Minister]** National Liquor Regulator last reviewed or varied the conditions of registration in terms of this section; or
  - (d) If at least five years have passed since the Minister last reviewed or varied the conditions of registration in terms of this section.”
- (b) the substitution for subsection (2) of the following subsection:
- “(2) A registrant who applies for registration or licensing as a micro-manufacturer or retail seller in terms of applicable provincial legislation must notify the **[Minister]** National Liquor Regulator in the prescribed manner and form.”.
- (c) the substitution in subsection (3) for the words preceding paragraph (a) of the following words:
- “(3) A registrant must notify the **[Minister]** National Liquor Regulator in the prescribed manner and form if it proposes to -.”.
- (d) the substitution for subsection (4) of the following subsection:
- “(4) Within 30 days after receiving a notice in terms of subsection (2) or (3), the **[Minister]** National Liquor Regulator must advise the registrant either that -
- (a) the **[Minister]** National Liquor Regulator will review the conditions of registration in light of proposed changes; or
  - (b) the **[Minister]** the National Liquor Regulator accepts the proposed changes.”.

- (e) the substitution in subsection (5) for the words preceding paragraph (a) of the following words:

“If the **[Minister]** National Liquor Regulator reviews conditions or registration in terms of this section – ”.

- (f) The substitution in paragraph (b) of subsection (5) for the words preceding subparagraph (i) of the following words:

“the **[Minister]** National Liquor Regulator may propose new or alternative conditions -.”.

#### **Amendment of section 17 of Act 32 of 2003**

11. Section 17 of the principal Act is hereby amended by -

- (a) the substitution for subsection (3) of the following subsection:

“(3) Any person may apply in the prescribed manner and form to the **[Minister]** National Liquor Regulator for the appointment of a person to conduct the registered activities of a registrant, pending the appointment of an administrator contemplated in subsection (2).”.

- (b) the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

“(4) Before granting an application made in terms of subsection (3), the **[Minister]** National Liquor Regulator must be satisfied that -.”.

#### **Amendment of section 19 of Act 59 of 2003**

12. Section 19 of the principal Act is hereby amended by -

- (a) the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“(1) In addition to the authority set out in section 17, the **[Minister]** National Liquor Regulator may review, and propose new conditions on, a registrant -.”.

(b) the substitution for subsections (2), (3) and (4) of the following subsections respectively:

“(2) Before imposing a condition in terms of subsection (1)(b) or (c), the **[Minister]** National Liquor Regulator must provide the registrant with a reasonable opportunity to remedy the shortcoming in its conduct.

(3) Section 13, read with the changes required by the context, applies to a proposal by the **[Minister]** National Liquor Regulator to impose conditions under this section.

(4) The **[Minister]** National Liquor Regulator may propose new or alternative conditions under this section only to the extent that is reasonable and justifiable in the circumstances that gave rise to the review.”.

### **Amendment of section 20 of Act 59 of 2003**

**13.** Section 20 of the principal Act is hereby amended by -

(a) the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) by the **[Minister]** National Liquor Regulator, in terms of subsection (2) or (3);”.

(b) the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“The **[Minister]** National Liquor Regulator may cancel a registration if the registrant – ”.

(c) the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

“In addition to the authority set out in subsection (2), the **[Minister]** National Liquor Regulator may cancel the registration of a registrant if the registrant – ”.

- (d) the substitution in paragraph (b) of subsection (3) for subparagraph (i) of the following subparagraph:

(i) failed to comply with the order of the **[Minister]** National Liquor Regulator given in terms of section 32(2); or”.

- (e) the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

“If the **[Minister]** National Liquor Regulator had cancelled a registration, the **[Minister]** National Liquor Regulator must notify the former registrant in writing of- ”.

- (f) the substitution in subsection (5) for the words preceding paragraph (a) of the following words:

“(5) If a registration is cancelled in terms of this section, section 21 or section 22, the **[Minister]** National Liquor Regulator must - ”.

- (g) the substitution for subsection (6) of the following subsection:

“(6) A registration is cancelled as of the date on which the **[Minister]** National Liquor Regulator notifies the former registrants of the cancellation, which, in the case of a cancellation in terms of section 21, must be on the date specified by the registrant in the notice of voluntary cancellation.”.

#### **Amendment of section 21 of Act 59 of 2003**

- 14.** Section 21 of the principal Act is hereby amended by -

- (a) the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“A registrant may cancel the registration by giving the **[Minister]** the National

**Amendment of section 22 of Act 59 of 2003**

15. Section 22 of the principal Act is hereby amended by the substitution for subsection (1) and (2) of the following subsections respectively:

“(1) If a registrant’s estate is wound up or sequestrated without having transferred the registration in terms of section 15, the liquidator or trustee of that estate must notify the **[Minister]** National Liquor Regulator in the prescribed manner and form within six months after the sequestration or winding-up, or such longer time as the **[Minister]** National Liquor Regulator, on request, may allow.

(2) Upon receiving a notice in terms of subsection (1), the **[Minister]** National Liquor Regulator must cancel the registration concerned.”.

**Amendment of section 23 of Act 59 of 2003**

16. Section 23 of the principal Act is hereby amended by -

- (a) the substitution for subsection (1) of the following subsection:

“(1) The **[Minister]** National Liquor Regulator must establish and maintain a register in the prescribed form of all persons who have been registered under this Act or applicable provincial legislation, including those whose registration has been transferred, altered or cancelled.”.

- (b) the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“The **[Minister]** National Liquor Regulator must -.”.

**Amendment of section 25 of Act 59 of 2003**

17. Section 25 of the principal Act is hereby amended by the insertion of the following subsections after subsection 3:

- “(4) The following persons designated in terms of any other legislation in the Republic are hereby designated to be inspectors with any other such powers granted by any such legislation as if they were appointed by the Minister in terms section 25 of this Act:
- (a) any member as defined in section 1 of the South African Police Service Act, 1995 (Act 68 of 1995), of or above the rank of sergeant;
  - (b) the Commissioner for Customs and Excise or any officer as defined in section 1(1) of the Customs and Excise Act, 1964 (Act 91 of 1964);
  - (c) a traffic officer designated in terms of the National Road Traffic Act, 1996 (Act 93 of 1996);
  - (d) any person designated under section 10 of Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972);
  - (e) a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
  - (f) any person designated as an inspector by the Department of Agriculture and Fisheries;
  - (g) any person designated as an inspector by the Department of Health; or
  - (h) any person designated by the Minister upon request.
- (5) The designated inspectors, as contemplated in sub-section (4) above, must satisfy any prescribed education, training, experience or competency requirement as approved by the National Liquor Regulator.”.

#### **Amendment of section 32 of Act 59 of 2003**

18. Section 32 of the principal Act is hereby amended by-

- (a) the substitution for subsection (1), (2), (3) and (4) of the following subsections respectively:

- “(1) Any person issued with a compliance notice may object to it by making **[representations to the Minister within -]** an application for internal review established in terms of section 32A within -
- (a) **[21]** 30 days of receipt of that notice; or
  - (b) such longer period as may be allowed by the **[Minister]** internal review process on good cause shown.



- (2) After considering any representations by the objector and any other relevant information, the **[Minister]** internal review may confirm, modify or cancel any compliance notice or any part of such notice.
- (3) The **[Minister]** internal review must serve a copy of the notice made in terms of subsection (2) on the objector and, if the objector is not a person registered in terms of this Act, any registered person affected by the notice.
- (4) If the **[Minister]** internal review confirms or modifies the notice or any part of the notice, the objector must comply with that notice, within the time period specified in that notice.”.

### **Insertion of section 32A in Act 59 of 2003**

19. The following section is hereby inserted in the principal Act after section 32:

#### **“32A. Internal review process**

- (1) The Minister may establish an internal review process within the National Liquor Regulator which will deal with administrative issues and objections against decisions by the Minister, inspectors or designated inspectors executed under this Act.
- (2) The National Liquor Regulator may appoint committee members of the internal review process, consisting of no more than three members who shall be appointed on the account of their knowledge of the law or experience in the resolution of disputes or such knowledge or experience as, in the opinion of the National Liquor Regulator, renders them suitable for appointment as members of internal review process.
- (3) Any person whose rights have been adversely affected by any decision taken by the Minister, inspectors or designated inspectors in the exercise of their powers and duties under this Act, may -
  - (a) within thirty (30) days after the date of such person became aware of the decision or such longer period as may be allowed by the internal review committee on good cause shown -

- (i) lodge an application, for review of decisions to the appropriate internal review committee in the prescribed manner and form against such decision.
  
- (4) If a person is not satisfied with the decision of the internal review committee, such a person may approach a court of competent jurisdiction for any appropriate relief.”.

### **Repeal of section 33 of Act 59 of 2003**

20. Section 33 is hereby repealed.

### **Amendment of section 34 of Act 59 of 2003**

21. Section 34 of the principal Act is hereby amended by the addition in subsection (1) of the following paragraphs:

- “(c) manufacture, distribute, sell, supply or possess any counterfeit goods, liquor or methylated spirits;
- (d) distribute liquor to an unlicensed persons; or
- (e) engage in any fronting practice as defined by the Broad-Based Black Economic Empowerment Act, 2003 (Act 53 of 2003), as amended.”.

### **Insertion of section 34A in Act 59 of 2003**

22. The following section is hereby inserted in the principal Act after section 34:

- “34A (1) The manufacturer or distributor who distribute liquor to a retailer who does not have a liquor license shall be jointly and severally liable for -
  - (a) any harm or unlawful conduct caused wholly or partly as a consequence of the supply of liquor to the unlicensed retailer;
  - (b) death of, or injury to any natural person; or
  - (c) any loss of, or physical damage to any property, irrespective of whether it is movable or immovable.
  
- (2) The manufacturer or distributor who distributes liquor to an unlicensed

contemplated in subsection 1 above, irrespective of whether the harm resulted from negligence on the part of the manufacturer or distributor, as the case may be.

(3) The unlicensed retailer who sells liquor to any person, shall be jointly and severally liable for any harm contemplated in subsection 1 above, irrespective of whether the harm resulted from the negligence on the part of such person.

(4) The manufacturer or distributor and the unlicensed retailer contemplated in this section shall be guilty of an offence where the liquor product found in the unlicensed premises is linked to the manufacturer or distributor.”.

#### **Amendment of section 35 of Act 59 of 2003**

23. Section 35 of the principal Act is hereby amended by the addition in subsection (1) of the following paragraphs after paragraph (b):

“(c) section 34(1)(c), is liable on a conviction to the penalties provided for in section 19 of the Counterfeit Goods Act, 1997 (Act 37 of 1997);

(d) section 34A, if a legal entity, a fine not exceeding R1 000 000 and imprisonment of its managers or supervisors responsible at the time of the contravention, for a period not exceeding five years; or

(e) both fine and imprisonment.”.

#### **Amendment of CHAPTER 6 of Act 59 of 2003**

24. **CHAPTER 6** of the principal Act is hereby amended by –

(a) the substitution for the heading of the following heading:

**“[NATIONAL LIQUOR POLICY COUNCIL] INSTITUTIONAL ARRANGEMENTS”**

#### **Insertion of section 39A in Act 59 of 2003**

25. The following section is hereby inserted in the principal Act after section 39:

**“39A Establishment of National Liquor Regulator**

- (1) The National Liquor Regulator is hereby established as an entity within the administration of the Department –
- (a) has jurisdiction throughout the Republic;
  - (b) is a juristic person;
  - (c) is independent and subject only to the Constitution and the law;
  - (d) must exercise its functions in accordance with this Act;
  - (e) must be impartial; and
  - (f) must perform its functions –
    - (i) in a transparent manner as is appropriate having regard to the nature of the specific function; and
    - (ii) without fear, favour or prejudice.

**Governance of the National Liquor Regulator**

- (2) The Minister may appoint a suitable qualified and experienced person as Chief Executive Officer of the National Liquor Regulator, who -
- (a) holds office for an agreed term not exceeding five (5) years; and
  - (b) may be re-appointed for a second term of office at the expiry of the term of office contemplated in paragraph (a) above.
- (3) The Chief Executive Officer of the National Liquor Regulator, who is a suitably qualified and experienced person shall be responsible for –
- (a) all responsibilities pertaining to the functions of the National Liquor Regulator;
  - (b) all income and expenditure of the National Liquor Regulator;
  - (c) all revenue collected by the National Liquor Regulator;
  - (d) all assets and the discharge of all liabilities of the National Liquor Regulator; and
  - (e) the proper and diligent implementation of the principal Act.
- (4) The Chief Executive Officer of the National Liquor Regulator shall –

- (a) report to the accounting officer of the Department of Trade and Industry;
  - (b) assign management or other duties to employees with appropriate skills to assist the National Liquor Regulator in the management or control over the functioning of the National Liquor Regulator;
  - (c) delegate, with or without conditions, any of the powers or functions of the National Liquor Regulator to any suitably qualified employee of the National Liquor Regulator, but such delegation does not divest the Chief Executive Officer of the National Liquor Regulator of responsibility for the exercise of any power of performance of any duty.
- (5) The Minister must appoint at least one (1) person and appoint other persons with suitable qualifications and experience as Deputy Chief Executive Officer of the National Liquor Regulator to assist in carrying out the functions of the National Liquor Regulator.
- (6) Each organ of state must assist the National Liquor Regulator to maintain its independence and impartiality and to perform its functions effectively.”.

### **Functions of the National Liquor Regulator**

- (7) The National Liquor Regulator must –
- (a) promote and support the development, where the need exist of a fair, transparent, competitive, sustainable, responsible and efficient liquor trade;
  - (b) monitor and oversee the liquor trade in the Republic, the activities of the provincial liquor boards and municipalities and report to the Minister annually;
  - (c) receive and decide on applications for liquor licences in the manufacturing and distribution of liquor;
  - (d) receive applications for review of licence for manufacturing or distribution of liquor;
  - (e) ensure that registrants comply with the Broad-Based Black Economic Empowerment Act, Code of Good Practice and compliance level

- (f) suspend or cancel any registration issued in terms of this Act;
- (g) establish and maintain registries and make information from the registries available to provincial boards;
- (h) receive and decide on applications of accessing the Government-Managed Fund for the implementation of programmes and provision of services for victims of liquor abuse;
- (i) produce a regular update and a standardised procedure manual for itself and the provincial boards, municipalities, contracting authorities in respect of their activities in terms of this Act;
- (j) in the case of an application for a liquor licence for inter-provincial manufacturing or distribution of liquor, the National Liquor Regulator must consult the relevant provincial boards in the prescribed manner;
- (k) in the case where there is no compliance with the objects of this Act, exercise the authority or power to request compliance;
- (l) within two (2) years of coming into operation of this Act, the National Liquor Regulator must formulate an implementation plan for capacitating its personnel for implementing this Act;
- (m) ensure proper enforcement of this Act, in a concerted effort with any person envisaged in the Act;
- (n) conduct education and awareness programmes of the provisions of this Act;
- (o) conduct research and disseminate information which may contribute to the liquor industry and socio-economic dynamics;
- (p) comply with liquor laws and relevant legislation;
- (q) The Minister may delegate powers of the Minister in terms of the Act to the Chief Executive Officer of the National Liquor Regulator.

#### **Inter-departmental relations in matters related to liquor**

- (8) For purposes of collaborative work with other government departments responsible for matters related to liquor –
  - (a) The Department of Trade and Industry must enter into an agreement with the Department of Health, Social Development, Finance, Justice and Correctional Services, Communications, Cooperative Governance and Traditional Affairs Research, Police Service, provinces, municipalities and more to provide for the joint exercise or

performance of their respective powers and functions contemplated in this Act and may establish a forum or similar body in this regard, subject to this provision.”.

#### **Insertion of section 40A in Act 59 of 2003**

26. The following section is hereby inserted in the principal Act after section 40:

##### **“40A Meeting quorum**

- (1) Where the Minister convenes a meeting in terms of section 40(1) and the Council fails to establish a quorum in two consecutive meetings to take a decision on a particular issue, the Council shall take a decision in the third meeting, whether the meeting reaches a quorum or not.”.

#### **Amendment of section 42 of Act 59 of 2003**

27. Section 42 of the principal Act is hereby amended -

- (a) by the addition in paragraph (a) of subsection (2) of the following subparagraphs:

- “(iii) determining trading days and hours for manufacturers and distributors, set out in the prescribed manner;  
(iv) the nature of information any registered person must keep and the duration such information must be retained; and”

- (b) by the addition of the following subsection after subsection (2):

- “(3) The Minister has the power to amend the fees imposed in terms of this Act, by notice, from time to time.”.

#### **Insertion of section 46A in Act 59 of 2003**

28. The following section is hereby inserted in the principal Act after section 46A:

##### **“46A Harmonisation of Liquor Laws**

- (1) The national and provincial liquor laws as applicable in terms of this Act shall, as from the date prescribed by the Minister and as stipulated in the norms and standards, be amended, consolidated or repealed consistently with the policies and the Liquor Act as amended.
- (2) The reviews and reforms of national and provincial policies, legislation and norms and standards shall be processed after consultation with the National Liquor Policy Council.
- (3) The provisions in the Liquor Act 59 of 2003 which provide for structures, different procedures and functions in respect of the regulation of liquor, are consolidated, amended or repealed to the extent set out and indicated for harmonization with the Act.
- (4) This Act shall operate consistently with the norms and standards as agreed to from time to time by the Council.”.

#### **Short title and commencement**

- 29.** This Act is called the Liquor Amendment Act, 2016, and shall come into operation on a date fixed by the President by proclamation in the Gazette.



**IMPORTANT NOTICE:**

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**No** FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

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