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GENERAL NOTICE

NOTICE 80 OF 2014

DEPARTMENT OF TRADE AND INDUSTRY

LIQUOR ACT, 59 OF 2003

NATIONAL LIQUOR NORMS AND STANDARDS

I, Dr Rob Davies, the Minister of Trade and Industry hereby, in terms of the Liquor Act, 59 of 2003, and in consultation with National Liquor Policy Council hereby extend the period for public comments with regard to the National Liquor Norms and Standards published on 4 December 2013, for a further period of thirty (30) working days.

Interested persons may submit written comments on the proposed National Liquor Norms and Standards not later than thirty (30) working days from the date of publication of this notice 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

For Attention: Tshililo Mabirimisa
Fax no: 012 394 2951
Email: TRMabirimisa@thedti.gov.za

DR ROB DAVIES, MP
MINISTER OF TRADE AND INDUSTRY
DATE: 20/...1/ 2014

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the dti
Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

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

FOR PRESENTATION TO

NATIONAL LIQUOR POLICY COUNCIL

REVISED AFTER CONSULTATION WITH STAKEHOLDERS

14 NOVEMBER 2012

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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") sets the tone Norms and Standards for the liquor industry. These National Norms and Standards were developed and presented before the National Liquor Policy Council ("NLPC") which gave a go ahead to consult.

1.2. The National Norms and Standards ordinarily raise issues in terms of current legislation, other issues that may lead to amendment of the current legislation will be addressed during the liquor policy review.

2. BACKGROUND

2.1. **the dti** was mandated to develop Norms and Standards in terms of the preamble, section 2 and section 39 of the Liquor Act, 2003. These National Norms and Standards were developed and presented before the NLPC. Following deliberations on the draft, the NLPC took a decision that the draft Norms and Standards should be consulted on.

2.2. The Norms and Standards address issues within the current legislative framework such as standards necessary for location of the licensed premises, age verification, licensing conditions, structural requirements e.g. ablution facilities and norms relating to trading hours.

2.3. There are policy issues that should be debated such as the revision of the current drinking age of eighteen (18) to twenty one (21), prohibition on the sale of liquor to visibly pregnant women and provisions prohibiting the issuing of liquor licenses to schools, filling stations or convenience stores within close proximity to filling stations and the extension of liability to persons who serve liquor to visibly drunk persons amongst others. These policy issues have formed part of the Draft Liquor Policy 2012 and shall continue to be debated therein. However it is a policy decision where to place these issues, whether in policy, legislation

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(Act and Regulations) or in the Norms and Standards. Norms and Standards may mean what is in the policy, legislation and codes.

3. PURPOSE

3.1. The purpose of the National Norms and Standards ("Norms and Standards") is:

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

3.1.2. to facilitate effective 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 will be implemented to apply to all existing and future premises which are licensed to manufacture, supply and/or sell liquor.

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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 and that not much transformation has happened within the liquor industry, 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 should be harmonised with the Liquor Act, 2003.The Liquor Act, 1989 must be repealed in all provinces by the end of the financial year 2013-2014.

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. The National Liquor Policy Council is required to adopt this as a resolution.

4.2. Age Verification

4.2.1. The licensee, manager or any other person dispensing liquor at the premises shall take

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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 should be an offence for a licensee, manager or any other person dispensing liquor to sell to a minor. To do so shall be an offence punishable by a fine. Repeat offenders' licenses should be suspended or terminated.

4.2.2. It should also be 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.

4.2.3. Liquor shall 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 shall be deemed that the person is indeed under the age of eighteen (18) years and does not qualify to purchase or consume liquor. Such person shall be informed to leave the liquor premises immediately.

4.3. Secondary supply of liquor to a minor

4.3.1. It should be an offence for an adult to supply liquor to a person under the age of eighteen (18) years.

4.3.2. It should also be 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

The licensee, manager or any person in charge of the premises shall not sell or supply liquor to any person who already appears intoxicated. To do so should be an offence and continuous act should also lead to suspension or termination of a license.

4.5. Payment of Income tax

4.5.1. To ensure compliance with the country's tax laws, all registrants or license holders should be registered with the South African Revenue Services ("SARS") in terms of the Income

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Tax Act and Customs and Excise Duties Act.

4.5.2. An original tax clearance certificate issued by SARS must accompany application for registration and/ or license of the registrant as a mandatory requirement. An original tax clearance certificate issued by SARS shall also be a mandatory requirement for all renewal applications.

4.5.3. Liquor licenses are not transferable and can only be utilised for the premises originally licensed.

4.6. Provision of free drinking water

Free drinking water should be made easily available at all on-consumption liquor outlets.

4.7. Provision of ablution facilities for patrons

All on-consumption outlets should provide ablution facilities for each gender at no additional cost to the patrons.

4.8. Free issue condoms

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

4.9. Liquor Premises should have safety and evacuation measures

4.9.1. No premises shall be licensed as liquor premises unless it can be demonstrated that basic safety and evacuation measures have been put in place including emergency exits; fire extinguishers and any other safety methods as prescribed by relevant legislation and/ or By-laws.

4.9.2. Existence of safety and evacuation measures shall also form part of the conditions for the granting or renewal of liquor licenses.

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

4.10. 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. A safe should be available at all on-consumption liquor premises in case persons in possession of guns or sharp objects are allowed to enter premises.

4.11. Designated smoking areas

On-consumption liquor premises should have designated smoking areas.

4.12. Noise; nuisance and pollution

4.12.1. The licensee shall take all reasonable steps to ensure that noise from the liquor premises should remain within the walls of such liquor premises 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 shall be kept clean at all times.

4.12.3. There shall 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

4.13.1. An off-consumption 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:

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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. full names, and address of the purchaser supported by proof of residence, identity document and any registration document if it is a business entity;

4.13.1.3. full description of the place to which liquor is to be delivered;

4.13.1.4. the registration number of the registered business;

4.13.1.5. invoice numbers and dates of issue; and

4.13.1.6. the kind and quantity of the liquor supplied.

4.13.2. An off-consumption distribution license holder shall not sell liquor to any unlicensed persons.

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

4.13.3.1. full names, and address of the purchaser;
4.13.3.2. the kind and quantity of the liquor supplied;
4.13.3.3. the purchase prices paid; and
4.13.3.4. reasons for such purchase.

4.13.4. An on-consumption license holder shall not sell liquor for take away or consumption off the licensed premises.

4.13.5. Failure to observe the mandatory licensing conditions shall lead to the suspension or termination of the liquor license.

4.14. Liability for Damage caused by Liquor

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4.14.1. In terms of the Consumer Protection Act, 68 of 2008 ("CPA") and except to the extent contemplated in the CPA, the producer or importer, distributor or retailer of liquor is liable for any harm, caused wholly or partly as a consequence of:

4.14.1.1. supplying any unsafe goods, expired or counterfeit goods;

4.14.1.2. a product failure, defect or hazard in any goods; or

4.14.1.3. inadequate instructions or warnings provided to the consumer pertaining to any hazard arising from or associated with the use of any goods, irrespective of whether the harm resulted from any negligence on the part of the producer, importer, distributor or retailer, as the case may be.

4.14.2. Liability for damage caused by liquor therefore as contemplated in the CPA suitably applies to damage caused by liquor.

4.15. Uniform Trading Hours

4.15.1. 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.

4.15.2. The set minimum standards of trading hours are as follows:

TYPE	DAYS	HOURS
1. Manufacturers:		
All Manufactures	7 days a week	24 hours for both macro and micro
Tasting	Monday – Sunday	10H00 – 18H00 Public Holidays closed.
2. Off consumption:		
Distribution	Monday – Saturday	09H00 – 18H00

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		(all transactions should stop at 18h00, delivery can however proceed) Sunday and Public Holidays closed.
Other off- consumption licenses	Monday – Saturday	09H00 – 20H00 Sunday and Public Holidays closed.
3. On Consumption (Business Zone)		
Other on-consumption licenses	Monday – Sunday	10H00 – 00H00
Night Club	Monday – Sunday	18H00 – 06H00
4. On Consumption (those in residential areas)		
Other on-consumption licenses	Monday – Saturday Sundays	10H00 – 21H00 10H00 – 17H00
Night Club	Monday – Saturday Sundays	18H00 – 06H00 18H00-00H00
Accommodation	Monday –Sundays	10H00 – 00H00
5. Special events		
Business zone	On the day of the event	10H00-00h00
Residential area	On the day of the event	10H00-22H00

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 reviewed licenses.

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5.2. The manufacturing, distribution and retail of Liquor products should comply with all relevant legislations as and when amended. This shall include:

5.2.1. Liquor Act 59 of 2003;

5.2.2. Liquor Products Act 60 of 1989;

5.2.3. Counterfeit Goods Act 37 of 1997;

5.2.4. Foodstuffs, Cosmetics and Disinfectant Act No. 91 of 1964;

5.2.5. Provincial Liquor Acts; and

5.2.6. any other relevant legislation.