REPUBLIC OF SOUTH AFRICA

LIQUOR BILL

(As introduced in the National Assembly as a section 76 Bill; explanatory summary of Bill published in Government Gazette No. 24628 of 27 March 2003)
(The English text is the official text of the Bill)

(MINISTER OF TRADE AND INDUSTRY)

[B 23—2003]

ISBN 0 621 33794 3

No. of copies printed 1 800

BILL

To establish national norms and standards in order to maintain economic unity within the liquor industry; to provide for essential national standards and minimum standards required for the rendering of services; to provide for the regulation of the micro-manufacture or the retail sale of liquor for consumption by default; to provide for measures to promote co-operative government in the area of liquor regulation; and to provide for matters connected therewith.

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

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CHAPTER 1

DEFINITIONS AND, OBJECTS, APPLICATION AND INTERPRETATION OF ACT

Definitions

1. (1) In this Act, unless the context indicates otherwise—
"beer" includes—
(a) ale, cider and stout;
(b) any substance or other fermented drink—
(i) manufactured as or sold under the name of beer, ale, cider or stout, other than sorghum beer, if it contains more than one per cent by volume of alcohol; or
(ii) declared to be beer under section 52(3)*(a)*;

"Council" means the National Liquor Policy Council established in terms of Chapter 7 of this Act;

"Director-General" means the Director-General of the national Department of Trade and Industry, or an officer of that Department designated by that Director-General;

"financial year" means the calendar year commencing on the first day of April in any year and ending on the last day of March in the following year;

"inspector" means an inspector designated in terms of section 31(1);

"liquor" means—

(a) liquor product as defined in section 1 of the Liquor Products Act, 1989 (Act No. 60 of 1989);

(b) beer or sorghum beer;

(c) methylated spirit; or

(d) any other substance or drink declared to be liquor under section 52(3)*(b)*, *(c)* or *(d)*;

"liquor-related product" means—

(a) a sweet or confection containing more than two percent by mass of alcohol;

(b) a medicated spirit containing methylated spirit; or

(c) spirituous or distilled perfumery containing methylated spirit;

"manufacturer" means any person who is a producer, rectifier, blender, broker, distiller, bottler or wine farmer if that person in a calendar year deals in a volume of liquor that exceeds the prescribed volume;

"Member of the Executive Council" means, in respect of each province, that person appointed in terms of section 132 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), to whom the responsibility for liquor licensing has been assigned;

"methylated spirit" means—

(a) a spirit denatured in accordance with any law on the denaturation or methylation of spirits;

(b) any other denatured spirit including—

(i) a medicated spirit; or

(ii) a denatured spirit declared to be a methylated spirit in terms of section 52(3)*(c)*;

"micro-manufacturer" means a producer, rectifier, blender, broker, distiller, bottler of liquor or a wine farmer who in a calendar year does not deal in the volume of liquor that exceeds the prescribed volume;

"Minister" means the member of Cabinet responsible for liquor matters in the national sphere of government;

"municipality" means a municipality as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"premises" includes any place, land, building or conveyance, or any part of it;

"prescribe" means prescribe by regulation;

"provincial legislation" means any legislation passed by a province with regard to any matter within the functional area of liquor licences;

"register" when used as a noun, means the relevant register referred to in section 50;

"registered person" means a person—

(a) who is registered in terms of this Act; or

(b) who is registered or licensed to sell or manufacture liquor in terms of any provincial legislation;

"registered premises" means premises that have been registered in terms of this Act;

"regulation" means a regulation made under this Act;

"sell" includes exchange or keep, offer, display, deliver, supply or dispose of for sale, or authorise, direct or allow a sale;

"sorghum beer" means—

(a) the drink generally known as sorghum beer and commonly manufactured from grain sorghum, millet or other grain;

(b) any other drink manufactured or sold under the name of sorghum beer;

(c) any other grain or cereal and vegetable or fruit extract that results in or becomes liquor by fermentation by the addition of water-based liquid irrespective of whether or not it is known as sorghum beer; or

(d) any other substance or fermented drink declared to be sorghum beer under section 52(3)*(d)*;

"supply", with regard to any liquor, means to place a person in possession or control of liquor;

"this Act" includes any schedule, regulation or notice made or issued under this Act.

Objects of Act

2. (1) The objects of this Act are—

(a) to reduce the socio-economic and other costs of alcohol consumption by—

(i) setting essential national norms and standards in the liquor trade and industry;

(ii) regulating the manufacture and wholesale distribution of liquor;

(iii) regulating the retail and micro-manufacture of liquor if there is no provincial legislation that regulates these activities and that complies with Schedule 1; and

(b) to maintain economic unity in the structuring of the liquor industry into three tiers of enterprise,

in order to promote—

(i) the entry of new participants into the liquor industry;

(ii) diversity of ownership in the industry; and

(iii) an ethos of social responsibility in the industry.

Application of Act

3. (1) Subject to subsection (2), this Act applies to the whole of the Republic.

(2) The following provisions of this Act do not apply to a province that exercises its legislative competence under section 104 of the Constitution to pass legislation in respect of any matter within the functional area of liquor licences:

(a) Section 44 in so far as its provisions prescribe an offence and a penalty for a failure to comply with a condition of registration or licence under any provincial legislation; and

(b) Schedule 2.

(3) If a province passes legislation contemplated in subsection (2), that legislation must comply with the norms and standards set out in Schedule 1.

CHAPTER 2

PUBLIC INTEREST PROHIBITIONS

Prohibition on manufacturing, distributing or selling liquor

4. (1) A person may not—

(a) manufacture liquor unless that person is—

(i) registered as a manufacturer in terms of this Act; or

(ii) registered or licensed as a micro-manufacturer under Schedule 2 or any applicable provincial legislation;

(b) distribute liquor without being registered as a distributor in terms of this Act;

(c) sell liquor for consumption without being—

(i) licensed to do so in terms of any applicable provincial legislation; or

(ii) in the absence of any applicable provincial legislation, registered to do so in terms of Schedule 2 to this Act.

(2) A person who imports liquor may sell it only if that person is a registered person.

Prohibition of concoctions

5. (1) For the purposes of this section, ''concoction'' means any substance or drink—

(a) manufactured by the fermentation of treacle, sugar or other substances and known as ''isityimiyana'', ''hopana'', ''qediviki'', ''skokiaan'', ''uhali'' or ''barberton'';

(b) called by another name of which the content is substantially similar to any of the concoctions referred to in paragraph *(a)*; or

(c) manufactured by the fermentation of any substance of which the consumption would be prejudicial to the health and well-being of the population of the Republic.

(2) No person may manufacture, possess, sell, supply or consume any concoction.

Prohibition of sale of liquor to minor

6. (1) For the purposes of this section, ''minor'' means a person who has not attained the age of 18 years.

(2) No person may sell liquor to a minor.

(3) No minor may falsely claim to be 18 years of age or older in order to procure the sale or supply of liquor to him or her by any person.

(4) No person may falsely claim that a minor is 18 years of age or older in order to procure the sale or supply of liquor to that minor.

Prohibition of sale or supply of liquor near schools

7. (1) For the purposes of this section, a ''school'' means a school as defined in the South African Schools Act, 1996 (Act No. 84 of 1996).

(2) Subject to subsection (3), no person may sell liquor or supply liquor within the prescribed distance from the premises of a school.

(3) The provisions of subsection (2) do not apply if—

(a) a person is registered or licensed before the commencement of this Act to sell liquor for consumption within the prescribed distance; or

(b) a person is registered or licensed to sell liquor for consumption on such premises prior to a school commencing operation within the prescribed distance from such premises.

(4) No registration or licence to sell liquor may be granted within the prescribed distance from a school from the commencement of this Act.

(5) The Minister must prescribe the distance contemplated in subsection (2).

Prohibitions regarding employment

8. (1) A person may not employ any person who has not yet attained the age of 16 in premises where liquor is sold unless the employee is undergoing training or a learnership contemplated in section 16 of the Skills Development Act, 1998 (Act No. 97 of 1998).

(2) An employer may not supply liquor to an employee as a term and condition of employment.

Prohibited behaviour on registered premises

9. (1) For the purpose of this section, ''registered premises'' include premises that are licensed or registered in terms of any provincial legislation.

(2) No person may be drunk and disorderly on registered premises.

(3) An owner or occupier of registered premises—

(a) may not sell or supply liquor to any person who is drunk and disorderly; and

(b) must take all necessary steps to have any person who is drunk and disorderly or who shows a propensity for committing a violent act lawfully removed from the premises.

Prohibited behaviour in public places

10. (1) No person may consume liquor in or on—

(a) any road, street, lane or thoroughfare; or

(b) any vacant land in an urban area.

(2) No person may be drunk and disorderly in—

(a) any place to which the public has access whether or not an admission fee is required or access is restricted to a category of persons; or

(b) any form of public transport.

(3) Subject to section 11*(c)*, no person may—

(a) take liquor into any sports ground; or

(b) possess or consume any liquor in a sports ground.

Provincial power to vary prohibitions

11. Nothing in this Chapter prevents a province from passing legislation that—

(a) sets a different age limit for the sale of liquor to minors as long as it is not below the age limit contemplated in section 6;

(b) sets a distance greater than that prescribed by the Minister under section 7(5); or

(c) permits the issuing of licences for the sale and consumption of liquor in any sports ground.

CHAPTER 3

REGISTRATION AS MANUFACTURER OR DISTRIBUTOR

Part A

Registration as manufacturer or distributor

Qualifications to be registered as manufacturer or distributor of liquor

12. (1) Any person may be registered as a manufacturer or distributor of liquor, except—

(a) a person who has not attained the age of 21 years at the date of submitting the application for registration;

(b) anyone convicted of—

(i) any contravention of any law governing the manufacture, distribution or sale of liquor within the preceding five years;

(ii) any offence arising from the trade in drugs; or

(iii) any offence involving dishonesty;

(c) anyone who is—

(i) an unrehabilitated insolvent; or

(ii) of unsound mind;

(d) a firm that has a director, member, trustee, partner or member of its board or executive body who falls in the category of persons contemplated in paragraphs *(a)* to *(c)*.

(2) No person may be registered—

(a) as a manufacturer, if that person is—

(i) registered as a distributor;

(ii) licensed as a micro-manufacturer in terms of any applicable provincial legislation or, in the absence of such legislation, registered in terms of Schedule 2; or

(iii) licensed to sell liquor in terms of any applicable provincial legislation or, in the absence of such legislation, registered in terms of Schedule 2; or

(b) as a distributor, if that person is—

(i) registered as a manufacturer;

(ii) licensed as a micro-manufacturer in terms of any applicable provincial legislation or, in the absence of such legislation, registered in terms of Schedule 2; or

(iii) licensed to sell liquor in terms of any applicable provincial legislation or, in the absence of such legislation, in terms of Schedule 2.

Application to register as manufacturer or distributor

13. (1) A person who is not disqualified in terms of section 12 may apply to the Minister in the prescribed manner and form to be registered as a manufacturer or a distributor of liquor.

(2) The Minister may—

(a) require further information in support of an application under subsection (1); and

(b) refuse an application made in terms of this section if the applicant has—

(i) failed to supply any information required in terms of paragraph *(a)*; or

(ii) failed to comply with the provisions of this section.

Determination of application

14. (1) If the Minister is satisfied that the applicant has complied with the provisions of section 13, the Minister must publish the application by notice in the *Gazette* within 30 days of the date that the applicant satisfies the requirements of that section. If the applicant has applied for registration as a manufacturer, the Minister must also publish the notice in a newspaper with a wide circulation in the area in which the applicant intends to establish its manufacturing premises.

(2) The notice referred to in subsection (1) must—

(a) invite comment on the application from the public; and

(b) require the comment to be submitted within 30 days of the date of the notice.

(3) Within 60 days of the date of the notice, the Minister must commence consultations with the applicant for the purposes of—

(a) considering the merits of the application, including any public comments or objections received; and

(b) determining the terms and conditions, if any, that may be made applicable to the registration of the applicant.

(4) Within 30 days after the conclusion of the consultations referred to in subsection (3), the Minister must—

(a) consider the application and make a decision;

(b) if necessary, propose terms and conditions of registration giving effect to the objects of this Act; and

(c) notify the applicant of the decision.

(5) If the Minister refuses an application, the Minister must give the applicant written reasons for the decision.

(6) If the Minister intends to impose terms and conditions of registration, the Minister must inform the applicant of the proposed terms and conditions, and of the reasons for the proposals, when issuing the decision in terms of subsection (4).

(7) An applicant who has received a proposal of terms and conditions may respond to the Minister within—

(a) 30 days from the date that the applicant was informed of the proposal; or

(b) such longer period as the Minister may permit, on good cause shown.

(8) If an applicant who has received a proposal of terms and conditions—

(a) consents to the terms and conditions being imposed, the Minister must register the applicant; or

(b) does not respond, or does not consent, to the proposed terms and conditions, the Minister may—

(i) refuse to register the applicant; or

(ii) determine the terms and conditions to be imposed.

(9) The Minister must inform the applicant in writing of a decision in terms of subsection (4), and must provide written reasons for that decision if the Minister has—

(a) refused to register the applicant; or

(b) amended a previously proposed term or condition.

Part B

Consequences of registration

Certificate, validity and public notice of registration

15. (1) Upon registering an applicant, the Minister must—

(a) issue a prescribed certificate of registration to the manufacturer or distributor; and

(b) enter the registration in the register.

(2) A valid certificate of registration, or a certified copy of it, is sufficient proof that the registered person is registered in terms of this Act.

(3) Any person may—

(a) inspect a copy of a registration certificate issued in terms of subsection (1); and

(b) obtain a copy of it, upon payment of the prescribed fee.

(4) A registration contemplated in subsection (1)—

(a) takes effect on the date on which the certificate of registration is issued; and

(b) remains in effect until—

(i) it is cancelled in terms of this Act;
(ii) the registered person is deregistered; or
(iii) in the case of a body corporate, it is wound up or dissolved.

(5) A registered person must reflect the registered status and registration number on all trading documents.

Transfer of registration

16. (1) Registration may be transferred to another person if—

(a) the registered person and the person to whom the registration is to be transferred apply in the prescribed manner and form for approval of such transfer;

(b) the person to whom the registration is to be transferred is not disqualified from being registered as a manufacturer or distributor under section 12; and

(c) the Minister has considered the application and approved the transfer.

(2) Sections 13 and 14, read with the changes required by the context, apply to an application in terms of subsection (1).

Variations of terms and conditions of registration

17. (1) For the purposes of this section, a variation of the terms and conditions of registration includes the extension or structural alteration of registered premises.

(2) A registered person may not extend or structurally alter the registered premises unless a variation of the terms and conditions of registration is approved by the Minister.

(3) Any registered person that wishes to vary the terms and conditions of registration must apply to the Minister in the prescribed manner.

(4) If the variation of the terms and conditions of registration is one that affects the public, the Minister must publish—

(a) the application by notice in the *Gazette* and invite comment from interested parties;

(b) the notice referred to in paragraph *(a)* in a newspaper with wide circulation in the area in which the manufacturer or distributor is or will be situated.

(5) The Minister must consider the application and any comments received and make a decision within 60 days of the application.

(6) The Minister must inform the applicant in writing of any decision and, if the application is refused, provide written reasons for the refusal.

Death, insolvency or incapability of registered person

18. (1) For the purposes of this section, the expression ''administrator of an estate'' includes—

(a) an administrator of a deceased estate;

(b) an administrator or liquidator of an insolvent estate; and

(c) a curator.

(2) If a registered person dies, becomes insolvent or is placed under curatorship, the administrator of that person's estate may, for the purposes of the administration of the estate, continue to conduct the registered business in the name of the estate.

(3) Any person may apply in the prescribed manner to the Minister for the appointment of a person to conduct the business of a registered person, pending the appointment of an administrator contemplated in subsections (1) and (2).

(4) Before granting an application made in terms of subsection (3), the Minister must be satisfied that—

(a) every person with a financial interest in the matter has been given reasonable notice of the application;

(b) an administrator has not been appointed; and

(c) there are reasonable grounds for believing that an administrator will be appointed.

(5) A person appointed in terms of subsection (3) may, for the purposes of the administration of the estate, continue to conduct the registered business in the name of the estate until an administrator has been appointed.

Annual registration fee

19. The Minister may prescribe an annual registration fee, which may vary depending on criteria consistent with the objects of this Act to be determined by the Minister.

Part C

Cancelling registration

Cancellation of registration

20. (1) A registration may be cancelled—

(a) by the Minister, in terms of subsection (2) or section 22; or

(b) voluntarily by the registered person, in terms of section 21.

(2) The Minister may cancel a registration if the registered person—

(a) has furnished information in the application for registration or submitted information required in terms of this Act that is not true or complete;

(b) does not comply with the terms and conditions of the registration; or

(c) does not comply with the provisions of this Act.

(3) Before the Minister cancels a registration, the Minister must notify the registered person in the prescribed manner and permit that person to make representations within the prescribed period.

(4) If the Minister has cancelled a registration, the Minister must notify the person whose registration has been cancelled in writing of—

(a) the cancellation;

(b) the reasons for the cancellation; and

(c) the date of cancellation.

(5) If a registration is cancelled in terms of this section, section 21 or section 22, the Minister must—

(a) cancel the registration certificate; and

(b) amend the register accordingly.

(6) A registration is cancelled as of the date on which the Minister cancels the certificate of registration, which, in the case of a cancellation in terms of section 21, must be on the date specified by the registered person in the notice of voluntary cancellation.

Voluntary cancellation

21. A registered person may cancel his or her registration by giving the Minister written notice in the prescribed manner and form—

(a) stating the person's intention to voluntarily cancel the registration and reasons for doing so; and

(b) specifying a date, at least 60 days after the date of the notice, on which the cancellation is to take effect.

Cancellation as consequence of disqualification

22. (1) If an estate is sequestrated, wound up, or dissolved, the administrator of that estate must notify the Minister in the prescribed manner and form of that fact within 30 days after the sequestration, winding-up or dissolution.

(2) Upon receiving a notice contemplated in subsection (1), the Minister must cancel the registration in question.

(3) If a registered person becomes subject to any other disqualification contemplated in section 12, the Minister must cancel the registration.

Part D

Judicial review

Reviews

23. (1) Any person may apply to the High Court to review any decision of the Minister made under this Act.

(2) The application contemplated in subsection (1) must be filed with the High Court within 180 days of the decision.

(3) The High Court, on good cause shown, may condone the late filing of an application for a review under this section.

CHAPTER 4

REGULATION OF MANUFACTURE, DISTRIBUTION AND SALE OF LIQUOR

Registered manufacturers

24. (1) Subject to subsection (5), a registered manufacturer may sell liquor only to—

(a) another registered manufacturer;

(b) a registered distributor;

(c) a registered or licensed micro-manufacturer;

(d) a producer of liquor-related products; or

(e) persons outside the Republic.

(2) Subject to subsection (5), a registered manufacturer may supply liquor only to a person referred to in subsection (1), and only—

(a) pursuant to a sale; and

(b) in accordance with the regulations.

(3) A registered manufacturer may buy liquor only from a—

(a) registered manufacturer;

(b) registered or licensed micro-manufacturer; or

(c) holder of an import certificate issued in terms of section 16 of the Liquor Products Act, 1989 (Act No. 60 of 1989).

(4) A registered manufacturer may not accept delivery of any liquor that has not been ordered by that manufacturer.

(5) The Minister may permit, as a term or condition of registration, a registered manufacturer to sell liquor—

(a) to a person registered under this Act to sell liquor for consumption;

(b) to a person licensed under any provincial legislation to sell liquor for consumption; or

(c) for consumption on or off the premises.

(6) Notwithstanding a permission granted in terms of subsection (5)*(c)*, a manufacturer may not sell liquor for consumption unless the manufacturer is—

(a) registered under this Act to sell liquor for consumption; or

(b) licensed under any applicable provincial legislation to sell liquor for consumption.

Registered micro-manufacturers

25. (1) A registered micro-manufacturer may sell liquor only to—

(a) any registered person;

(b) a producer of liquor-related products;

(c) a person buying liquor for consumption on or off the premises; or

(d) any person outside the Republic.

(2) A registered micro-manufacturer may supply any liquor only to a person referred to in subsection (1), and only pursuant to a sale to that person.

(3) A registered micro-manufacturer may buy liquor only from—

(a) a registered manufacturer;

(b) a registered distributor;

(c) a registered or licensed micro-manufacturer; or

(d) a holder of an import certificate issued in terms of section 16 of the Liquor Products Act, 1989 (Act No. 60 of 1989).

(4) A registered micro-manufacturer may not accept delivery of any liquor that has not been ordered by that micro-manufacturer.

Registered distributors

26. (1) A registered distributor may not sell or supply liquor to a person who is not a registered person or to a person who is outside the Republic.

(2) A registered distributor may supply liquor only to a person referred to in subsection (1), and only pursuant to a sale to that person.

(3) A registered distributor may buy liquor only from a—

(a) registered manufacturer;

(b) registered or licensed micro-manufacturer; or

(c) holder of an import certificate issued in terms of section 16 of the Liquor Products Act, 1989 (Act No. 60 of 1989).

(4) A registered distributor may not accept delivery of any liquor that has not been ordered by that distributor.

Registered or licensed sellers of liquor for consumption

27. (1) A registered seller of liquor for consumption—

(a) may buy liquor only from—

(i) a registered distributor;

(ii) a registered manufacturer with terms and conditions of registration permitting it to sell liquor under section 24(5) to registered sellers of liquor for consumption; or

(iii) a holder of an import certificate issued in terms of section 16 of the Liquor Products Act, 1989 (Act No. 60 of 1989).

(b) may not sell liquor to any person other than for the purpose of consumption.

(2) Notwithstanding subsection (1), a provincial liquor authority may permit, as a term and condition of registration or a licence, a registered seller of liquor for consumption to—

(a) buy liquor from a registered seller of liquor for consumption; or

(b) sell liquor to a registered seller of liquor for consumption.

(3) A registered seller of liquor for consumption may not accept delivery of any liquor that has not been ordered by that seller.

Producers of liquor-related products

28. (1) A producer of liquor-related products may buy liquor or methylated spirits only from—

(a) a registered manufacturer;

(b) a registered micro-manufacturer;

(c) a registered distributor; or

(d) a holder of an import certificate issued in terms of section 16 of the Liquor Products Act, 1989 (Act No. 60 of 1989).

(2) A producer of liquor-related products may use liquor or methylated spirits only in the manufacture of liquor-related products.

Regulation of methylated spirits

29. A person may manufacture, distribute, possess or sell methylated spirits only in accordance with the regulations contemplated in section 52(4).

CHAPTER 5

COMPLIANCE WITH ACT

Interpretation

30. For the purposes of this Chapter, ''this Act'' does not include Schedule 2 or any terms and conditions of registration set under that Schedule.

Designation of inspectors

31. (1) The Minister—

(a) may designate any person as an inspector, with either general or specific authority to exercise powers under this Act; and

(b) must issue to each inspector a certificate in the prescribed form stating that the person has been designated as an inspector with the authority to exercise the powers referred to in paragraph *(a)*.

(2) A valid certificate issued in terms of subsection (1)*(b)* is sufficient evidence of the authority of the inspector named on it.

(3) When exercising powers in terms of this Chapter, an inspector has the status of a peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

Functions of inspectors

32. (1) An inspector may—

(a) investigate complaints submitted to the inspector in the prescribed manner and form; and

(b) subject to this Act—

(i) monitor and enforce compliance with this Act; or

(ii) conduct an inspection under this Act.

(2) Subject to sections 33 and 34 an inspector may—

(a) question any person whom the inspector reasonably believes may have information relevant to an inspection;

(b) question any person present on any land or premises being inspected, in respect of any matter which may be relevant to the inspection;

(c) inspect any document that—

(i) a person is required to maintain in terms of this Act or any other relevant law; or

(ii) may be relevant to any liquor related inspection;

(d) copy any document referred to in subsection *(c)* or, if necessary, remove the document in order to copy it;

(e) take samples of any substance that is relevant to the inspection;

(f) for the purpose of the inspection, take photos or make audio-visual recordings of anything or any person, process, action or condition implicated in the inspection on or regarding any land or premises; and

(g) do all things necessary for conducting the inspection.

(3) An inspector who removes anything from land or premises being inspected, must—

(a) issue a receipt for it to the owner or person in control of the premises; and

(b) unless it is a sample contemplated in subsection (2)*(e)*, return it as soon as practicable after achieving the purpose for which it was removed.

(4) An inspector may be accompanied during an inspection by a member of the South African Police Service and any other person reasonably required to assist in conducting the inspection.

Entry of premises with warrant

33. (1) An inspector may enter any premises if a magistrate has issued a warrant to do so in accordance with subsection (2).

(2) A magistrate may issue a warrant to enter and inspect any premises if, on the basis of information provided in writing and on oath, the magistrate has reason to believe that—

(a) the entry and inspection are necessary to obtain information, in the interest of the public, that cannot be obtained without entering those premises; or

(b) any provision of this Act is not being complied with.

(3) A warrant in terms of subsection (2) may be issued at any time and must specifically—

(a) identify the premises that may be entered and inspected; and

(b) authorise the inspector to enter and inspect the premises and to do anything contemplated in section 32.

(4) A warrant in terms of subsection (2) is valid until—

(a) it is executed;

(b) it is cancelled by the magistrate who issued it or, in that magistrate's absence, by a person with similar authority;

(c) the purpose for which it was issued has fallen away; or

(d) 90 days have elapsed since the date it was issued.

(5) Before commencing an inspection under a warrant, an inspector must—

(a) if the owner of or a person in control of the premises is present—

(i) provide identification to that owner or person in control of the premises, explain to that person the authority by which the inspection is being conducted and show that person the inspector's certificate of designation; and

(ii) hand a copy of the warrant to that person or a person named in it; or

(b) attach a copy of the warrant to the premises in a prominent and visible place if—

(i) the owner is absent and there is no person in control of the premises; or

(ii) the owner or person in control of the premises refuses to accept a copy.

Entry of premises without warrant

34. (1) An inspector who does not have a warrant may—

(a) enter and inspect any premises with the consent of the owner or person in control of those premises; or

(b) on a routine basis, enter and inspect any registered premises no more than six times during a 12-month period.

(2) In addition to the entry permitted in terms of subsection (1), an inspector may without a warrant enter any land or premises in respect of which there is an outstanding compliance notice issued in terms of section 38, for the purpose of determining whether that notice has been complied with.

(3) Before commencing an inspection on any land or premises in terms of this section, the inspector must—

(a) provide identification to the owner or other person in charge of the premises;

(b) explain to that person the authority by which the inspection is being conducted; and

(c) show that person the inspector's certificate of designation.

(4) An entry and inspection without a warrant may be carried out only during normal hours of business.

Use of force

35. (1) An inspector executing a warrant in terms of section 33 may overcome any resistance to entry or inspection by using the force that is reasonably required, including breaking a lock, door or window of the premises to be entered.

(2) Before using force, the person executing the warrant must audibly demand admission and announce the purpose of the entry or inspection, unless that person reasonably believes that doing so may induce someone to destroy, dispose of or tamper with any object or document that is the object of the inspection.

(3) The Minister must compensate anyone who suffers damage caused as a result of forced entry during inspection if no one responsible for the premises was present.

(4) Except in the case of an emergency, force may not be used to effect an entry or conduct an inspection in terms of section 34.

Duty to produce documents, answer questions and assist inspectors

36. (1) Any person who is in possession of a document relevant to an inspection must produce that document at the request of the inspector.

(2) An owner or occupier of any land or premises must provide any facility and assistance that is reasonably required by an inspector to conduct an inspection effectively.

(3) Before questioning persons in terms of this Chapter, an inspector must inform them of their constitutional rights.

(4) Persons who are questioned by an inspector in terms of this Chapter must answer every question truthfully and to the best of their ability.

(5) An answer or explanation given to an inspector may not be used or admitted in criminal proceedings against the person who provides it, except in proceedings against that person on a charge relating to—

(a) the administration or taking of an oath;

(b) the making of false statements; or

(c) the failure to answer a lawful question fully and satisfactorily.

Offences regarding inspectors

37. (1) No person may—

(a) refuse to grant an inspector access to premises to which the inspector is duly authorised to have access;

(b) obstruct, interfere or hinder an inspector who is exercising a power or performing a duty in terms of this Act;

(c) refuse to provide an inspector with a document or information that the person is lawfully required to provide in terms of this Act;

(d) furnish false or misleading information to an inspector;

(e) unlawfully prevent the owner of any land or premises, or a person working for that owner, from entering the land or premises in order to comply with a requirement of this Act or any provincial law;

(f) pretend to be an inspector;

(g) falsify an authorisation or a warrant or compliance notice; or

(h) fail to comply with a compliance notice.

(2) No inspector may—

(a) enter any land or premises without a warrant in circumstances requiring a warrant;

(b) act contrary to a warrant issued in terms of section 33;

(c) without authority enter or inspect land or premises; or

(d) disclose any information relating to the financial or business affairs of any person that was acquired in the exercise of any power or performance of any duty in terms of this Act, except—

(i) to a person who requires that information in order to exercise a power or perform a duty in terms of this Act;

(ii) if the disclosure is ordered by a competent court; or

(iii) if the disclosure is in compliance with the provisions of any law.

Compliance notices

38. (1) If an inspector believes that any provision of this Act or a term or condition of registration has not been complied with, the inspector may issue a compliance notice in the prescribed form and manner to the registered person or, in the absence of the registered person, to a person in control of the registered premises.

(2) A compliance notice contemplated in subsection (1) must set out—

(a) the provision that has not been complied with;

(b) details of the nature and extent of the non-compliance;

(c) any steps that are required to be taken and the period within which those steps must be taken; and

(d) any penalty or fine that may be imposed in terms of section 43 or 45 if those steps are not taken.

(3) A compliance notice contemplated in subsection (1) remains in force until an inspector issues a compliance certificate contemplated in subsection (4) in respect of that notice.

(4) If the requirements of a compliance notice have been satisfied, the inspector must issue a compliance certificate.

Objection to compliance notice

39. (1) Any person issued with a compliance notice may object to it by making representations to the Minister within—

(a) 21 days of receipt of that notice; or

(b) such longer period as may be allowed by the Minister on good cause shown.

(2) After considering any representations by the objector and any other relevant information, the Minister may confirm, modify or cancel any compliance notice or any part of such notice.

(3) The Minister must serve a copy of the decision made in terms of subsection (2) on the objector and, if the objector is not a registered person, on any registered person affected by the notice.

(4) If the Minister 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.

Appeals against order of Minister

40. (1) An objector may appeal to the High Court against an order of the Minister issued under section 39(3) within 21 days of receipt of the order.

(2) An order made under section 39(3) is suspended pending the final determination of the appeal.

(3) Notwithstanding subsection (1), the High Court may condone a late appeal on good cause shown.

(4) An appeal in terms of this section may involve a complete rehearing of and fresh determination on the merits of the matter with or without additional evidence or information.

(5) A court of appeal may confirm the order of the Minister or make such other order as it may deem fit in place thereof.

Cancellation of registration

41. (1) The Minister may cancel the registration of a registered person if—

(a) that person has failed to comply with a notice in terms of section 38 or any modification thereof in terms of section 39; and

(b) no appeal has been noted in terms of section 40; or

(c) any such appeal has failed.

Closure of registered and other premises

42. (1) For the purposes of this section—

(a) a ''registered person'' includes an agent or employee of a registered person;

(b) a ''public disturbance'' includes—

(i) a strike, lockout or picket that the inspector has reasonable grounds to believe will become violent; or

(ii) any act or apprehended act of disorder, riot or public violence.

(2) An inspector may order a registered person to close the registered premises for any period if the inspector believes that there may be public disturbance near those registered premises.

(3) A registered person must comply immediately with an order given under subsection (2).

(4) If a registered person fails to comply with an order given under subsection (2), the inspector giving the order may take any steps necessary to close the premises, including the use of such force as is reasonably required and may call upon the South African Police Service for assistance in that regard.

(5) Any order given under subsection (2) may be withdrawn at any time—

(a) by the inspector who gave the order;

(b) if the premises are registered under Schedule 2 or under any applicable provincial legislation by the Member of the Executive Council; or

(c) if the premises are registered under this Act by the Minister.

CHAPTER 6

OFFENCES, PENALTIES AND FINES

Offences and penalties

43. (1) It is an offence to—

(a) contravene or fail to comply with any provision of this Act; or

(b) fail to comply with any term or condition of registration imposed under this Act.

(2) Any person who contravenes or fails to comply with a provision of—

(a) sections 4, 5, 6, 7 and 8, is liable on conviction to a fine or to imprisonment for a period not exceeding five years; or

(b) sections, 9, 10, 11 and 37, is liable on conviction to a fine or to imprisonment for a period not exceeding one year.

Imputation of liability on registered persons

44. (1) If a manager, agent or employee of a registered person performs or omits to perform any act that would constitute an offence if performed or omitted by the registered person, that registered person is, in the absence of evidence to the contrary, deemed to have performed or omitted to perform the act, if the court is satisfied that—

(a) the registered person either connived at or permitted the act or omission by the manager, agent, or employee concerned;

(b) the registered person did not take all reasonable steps to prevent the act or omission; and

(c) the act or omission fell within the scope of the authority or employment of the manager, agent, or employee concerned.

(2) For purposes of subsection (1)*(b)*, the fact that the registered person issued instructions prohibiting an act or omission is not in itself sufficient proof that all reasonable steps were taken to prevent the act or omission.

Administrative fines

45. (1) The Minister may prescribe administrative fines for any contravention of this Act, including increased fines for repeated contravention.

(2) The Minister may only impose a prescribed fine on any person for the commission of an offence if—

(a) no prosecution has been instituted against that person in respect of that offence; and

(b) the Minister has—

(i) received written confirmation that the National Director of Public Prosecutions has declined to prosecute that person in respect of that offence;

(ii) called upon all interested parties to make representations in the prescribed form; and

(iii) considered any such representations.

(3) Section 44 applies, with the necessary changes required by context, in respect of any fine imposed under this section.

(4) If the Minister has imposed a fine upon any person under subsection (2) for any offence under this Act, no prosecution may be instituted against that person in respect of that offence.

(5) Any person upon whom a fine has been imposed under this section may appeal to the High Court against the Minister's decision within 60 days of the decision.

(6) The High Court may condone the late filing of an appeal contemplated in subsection (5) on good cause shown.

(7) An appeal in terms of this section may involve a complete rehearing of and fresh determination on the merits of the matter with or without additional evidence or information.

(8) A court of appeal may confirm the fine imposed by the Minister or make such other order as it may deem fit.

(9) If a person appeals against the Minister's decision under subsection (5), the appeal suspends the obligation to pay the fine pending the outcome of the appeal.

(10) Any person obliged to pay a fine under this section must do so within the prescribed period, failing which the Minister may apply to the High Court for the fine to be made an order of court.

(11) The amount of a fine which has been made an order of court is recoverable as if it were the amount of a civil judgment in that court.

CHAPTER 7

NATIONAL LIQUOR POLICY COUNCIL

Establishment of Council

46. There is hereby established a National Liquor Policy Council.

Composition of Council

47. (1) The Council consists of—
(a) the Minister;
(b) for each province, the Member of the Executive Council responsible for liquor licensing in that province; and
(c) a member of the Provincial Liquor Authority of each province.
(2) The Minister chairs the Council.
(3) The members contemplated in subsection (1)*(c)* have no vote on the Council.

Functions of Council

48. (1) The Council is a forum for intergovernmental co-operation contemplated in section 41(1)*(h)* of the Constitution.
(2) The functions of Council are—
(a) to consult on—
(i) national norms and standards for the liquor industry;
(ii) national policy in respect of the liquor industry;
(iii) liquor legislation or regulations, including the promotion of uniform national and provincial legislation in respect of liquor norms and standards;
(iv) any matter concerning the liquor industry within the national and provincial spheres of government;
(v) any matter concerning the management or monitoring of the liquor industry in the Republic, or licensing in any province or provinces;
(vi) the resolution of any dispute that may arise among any provincial authorities, or between a provincial licensing authority and the Minister, regarding the regulation and control of the liquor industry; or
(vii) any other matter that may be referred to it by a member of the Council;
(b) to promote and facilitate intergovernmental relations in respect of the liquor industry; and
(c) to facilitate the settlement of intergovernmental disputes concerning the liquor industry.

Proceedings

49. (1) The Minister may convene a meeting of the Council at any time, but must convene at least two meetings in each financial year.
(2) The Minister may designate any meeting of the Council to be a meeting of all members, or only of voting members.
(3) A non-voting member may nominate an alternate from its relevant regulatory authority to represent that member at a meeting of the Council.
(4) The Council may invite non-members to attend meetings of the Council.
(5) As a body through which the national and provincial spheres of government seek to co-operate with one another in mutual trust and good faith, the Council must attempt to reach its decisions by consensus.
(6) If the Council fails to reach consensus on a decision, it may resolve the matter by formal vote on a motion.
(7) A motion in terms of subsection (6) passes only if it is supported by—
(a) the Minister; and
(b) at least five other voting members of the Council.
(8) Subject to subsections (1) and (7), the Council may adopt its own rules for the conduct of its meetings.

Register of registered persons and national record of registrations

50. (1) The Minister must keep a register in the prescribed form of all registered persons including those—
(a) who have transferred their registration;
(b) who have altered or extended the registered premises; or
(c) whose registrations have been cancelled.
(2) The provincial liquor authority for each province must submit to the Minister once a month and in the prescribed form details of all persons who have been registered or

licensed to sell or micro-manufacture liquor in that province under this Act or any provincial legislation.

(3) The Minister must consolidate and keep a national record of the information provided under subsection (2) in the prescribed form.

(4) Within 60 days after the end of each financial year, the Minister must publish in the *Gazette* and at least one other widely circulated means of communication, the national record of registrations, setting out the names of all persons—

(a) who are registered on the last day of the relevant financial year;

(b) whose registrations were cancelled during the relevant financial year; and

(c) who deregistered voluntarily or have been sequestrated, wound up or dissolved during the relevant financial year.

CHAPTER 8

REGULATIONS AND NOTICES

Public health considerations

51. The Minister, in consultation with the member of Cabinet responsible for health, may prescribe the content of and the manner in which public health notices must be displayed on premises—

(a) registered under this Act; and

(b) licensed or registered under provincial legislation.

Power to issue regulations and notices

52. (1) Subject to subsection (2), the Minister may make regulations regarding any matter that may be—

(a) required or permitted in terms of this Act; or

(b) necessary or expedient to prescribe in order to facilitate the implementation of this Act.

(2) In respect of any matter affecting the sale of liquor for consumption, the manufacture of sorghum beer or the micro-manufacture of liquor, the Minister, in consultation with the Council, may make regulations in order to establish uniform norms and standards in the liquor industry regarding—

(a) the form and nature of statistical information that provincial authorities must supply to the Minister;

(b) the information to be furnished to the Minister regarding the operation of the liquor industry by—

(i) registered persons; and

(ii) the holder of an import certificate in terms of section 16 of the Liquor Products Act, 1989 (Act No. 60 of 1989).

(3) The Minister may by notice in the *Gazette*—

(a) declare any substance or fermented drink other than the drinks contemplated in paragraphs *(a)* and *(b)*(i) of the definition of ''beer'' in section 1, to be beer for the purposes of this Act;

(b) declare any substance or drink other than the liquor contemplated in paragraphs *(a)* and *(b)* of the definition of ''liquor'' in section 1, to be liquor for the purposes of this Act;

(c) declare any denatured, medicated, perfumed or otherwise treated spirit other than the spirit contemplated in paragraph *(a)* of the definition of ''methylated spirit'' in section 1, to be methylated spirit for the purposes of this Act; and

(d) declare any substance or fermented drink other than the drink contemplated in paragraphs *(a)* and *(b)* of the definition of ''sorghum beer'' in section 1, to be sorghum beer for the purposes of this Act.

(4) The Minister may make regulations—

(a) restricting and regulating the importation, conveyance, keeping, sale, supply or use of methylated spirit;

(b) prescribing the categories of persons who may sell methylated spirit to the public;

(c) prescribing the quantities of methylated spirit which may be sold on any occasion to any person and the receptacles in which it shall be sold; and

(d) restricting or prohibiting the purchase or possession of methylated spirit;

(e) establishing a process for granting permits for the purchase or possession of methylated spirit;

(f) concerning the denaturation, odorisation, colouring and rendering impotable of methylated spirit sold or kept for sale; and

(g) prescribing the form, manner, custody and retention of records or other documents to be kept in respect of any form of dealing in methylated spirit.

(5) A regulation made under this Act may provide that a person who contravenes it, or fails to comply with it, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

Procedure when issuing regulations

53. (1) Before the Minister may promulgate a regulation contemplated in section 52 that materially and adversely affects any person, the Minister must—

(a) table the draft regulation or notice with the Council for its consideration;

(b) take appropriate steps to notify any persons who are likely to be materially or adversely affected by the regulation or notice and to invite comments from them;

(c) publish the regulation or notice in the *Gazette* and invite comment from the public; and

(d) consider any comment received and any recommendations made by the Council.

(2) If any regulation, other than one contemplated in subsection (1), affects a province, that regulation must be tabled with the Council for its consideration.

CHAPTER 9

GENERAL PROVISIONS

Limitation of liability

54. Neither the State, nor any organ of state or person exercising any power or performing any duty in terms of this Act, is liable for any loss or damage resulting from an act or omission in good faith in the exercise of such power or the performance of such duty.

Delegation of power

55. (1) The Minister may delegate any power, other than the power to make regulations, to the Director-General or an officer of the national department responsible for liquor matters designated by the Director-General.

(2) No delegation of any power under subsection (1) prevents the Minister from revoking the delegation and exercising the power.

(3) If the Minister delegates a power under subsection (1), any person affected by the decision made by a person so delegated may appeal against that decision to the Minster.

(4) Any appeal contemplated in subsection (3) must be lodged with the Minister within 30 days of the person being informed of the decision.

(5) The Minister must conduct the appeal in accordance with the prescribed procedure and may only decide it after permitting all interested parties an opportunity to make representations.

Default provincial legislation

56. (1) Subject to subsection (2) the provisions of Schedule 2 do not apply in respect of a province that has exercised its legislative competence under section 104 of the Constitution to pass legislation for its province with regard to any matter within the functional area of liquor licences.

(2) The provisions of Schedule 2 apply in respect of every province which—

(a) has passed legislation adopting that Schedule; or

(b) has failed, within one year from the date of commencement of this Act, to pass legislation—

(i) that complies with the norms and standards set out in Schedule 1; and

(ii) that provides for the matters contained in Schedule 2.

Transitional arrangement and repeal of laws

57. (1) The laws mentioned in Schedule 4 are repealed to the extent indicated in the third column of that Schedule.

(2) In respect of each province, the repeal of a law in terms of subsection (1) only takes effect on the date that—

(a) that province passes legislation contemplated in section 56(1); or

(b) the application of Schedule 2 to that province takes effect.

(3) The provisions of Schedules 3 and 5 apply to the transition from the repealed laws to this Act.

Short title and commencement

58. This Act is called the Liquor Act, 2003, and comes into operation on a date to be determined by the President by proclamation in the *Gazette*.

SCHEDULE 1

NORMS AND STANDARDS APPLICABLE TO PROVINCIAL LEGISLATION

Obligation to require licence to sell or micro-manufacture liquor

1. (1) Each province must have legislation regulating—
(a) the sale of liquor for consumption; and
(b) the micro-manufacture of liquor.

(2) Each province must require every person contemplated in subsection (1) to be registered or to have a licence to perform the activities contemplated in that subsection.

Restrictions on persons that may be registered or licensed

2. (1) No person may be registered or licensed to micro-manufacture liquor or to sell liquor for consumption in contravention of section 12 of this Act.

(2) No person may be registered or licensed to micro-manufacture liquor or to sell liquor for consumption without the approval of the Minister if—
(a) that person is a registered manufacturer or distributor of liquor; or
(b) a registered manufacturer or distributor of liquor has an interest in that person.

Obligation to establish independent authorities and enforcement mechanisms

3. Each province must—
(a) establish an independent authority to control the issuing and cancellation of licences contemplated in item 1;
(b) ensure that adequate funding is provided for the proper functioning of the authorities; and
(c) ensure that there are adequate enforcement mechanisms to ensure proper monitoring and compliance with this Act and the provincial legislation.

Obligation to keep register

4. (1) Provincial legislation regulating liquor licences must—
(a) provide for a provincial register; and
(b) permit interested persons to inspect a copy of the register and for a prescribed fee to obtain a copy of the register or part of it.

(2) The register must include the prescribed details of all persons—
(a) who applied for licences to sell or micro-manufacture liquor;
(b) who were refused licences and the prescribed category of reason for the refusal;
(c) who were licensed and the terms and conditions of those licences;
(d) whose licences were varied and the terms of the variation; and
(e) whose licences were cancelled.

Obligation to provide information to Minister

5. Any provincial legislation regulating liquor licences must provide that the information contemplated in item 4(2) of this Schedule must be submitted to the Minister once a month.

Obligation to determine hours

6. Any provincial legislation must determine—
(a) the zones in which liquor may not be sold;
(b) the days on which liquor may be sold; and
(c) the hours during which liquor may be sold.

SCHEDULE 2

DEFAULT PROVINCIAL LEGISLATION

Part A

Definitions and application

Definitions

1. In this Schedule, unless the context indicates otherwise—
''provincial department'' means the department responsible for liquor matters in a province;
''provincial liquor authority'' means the authority established in terms of item 2 in a province;
''Member of the Executive Council'' means the member responsible for liquor matters.

Part B

Provincial liquor authorities

Establishment of provincial liquor authorities

2. A provincial liquor authority is hereby established in each province.

Composition of provincial liquor authority

3. (1) A provincial liquor authority must consist of—
(a) an officer in the employ of the province designated by the head of the provincial department; and
(b) two other persons.
(2) The Member of the Executive Council responsible for liquor licensing in the province must appoint the members of the provincial liquor authority for the province for a period not exceeding five years.
(3) Before a Member of the Executive Council responsible for liquor licensing in the province appoints a member of a provincial liquor authority, that Member must—
(a) publish in the *provincial gazette* and any other widely circulated means of communication, a notice calling for nominees and stating the criteria for nomination;
(b) consider all the nominations submitted in response to the notice;
(c) compile a short list of nominees and publish it for comment in the manner contemplated in paragraph *(a)*; and
(d) consider any comments received in response to the publication of the short list.
(4) Subject to subitem (2), a member of a provincial liquor authority holds office for such period and on such terms as may be determined by the Member of the Executive Council.

Functions of provincial liquor authority

4. (1) The functions of a provincial liquor authority are—
(a) to advise the Member of the Executive Council in respect of any matter—
(i) arising from the application of this Schedule; or
(ii) relating to the sale and consumption of liquor in the province;
(b) to furnish a report or recommendation to the Member of the Executive Council on any matter referred by the Member to the Board concerning the matters referred to in paragraph *(a)*; and
(c) to consider and grant or refuse applications for registration in terms of this schedule.
(2) A provincial liquor authority may grant registration in respect of any of the following categories:
(a) micro-manufacturing; or

(b) sale of liquor for consumption—
(i) off the premises where the liquor is sold;
(ii) on the premises where the liquor is sold;
(iii) on and off the premises where the liquor is sold; or
(iv) at special events.

Personnel and administration of provincial liquor authority

5. The head of the provincial department must—
(a) subject to the laws governing the public service, appoint or designate officers to assist the provincial liquor authority; and
(b) provide the necessary administrative and other resources and services to enable the Authority to perform its functions.

Funds of a provincial liquor authority

6. (1) The funds of a provincial liquor authority must consist of—
(a) money appropriated by the provincial legislature for that authority; and
(b) any money which may accrue to the authority from any other source.
(2) A provincial liquor authority may pay out of its own funds any amount required to meet the operational costs of the Authority in connection with its functions, in accordance with a budget for each financial year approved by the Director-General.

Part C

Registration

Qualifications for registration as micro-manufacturer or seller of liquor for consumption

7. (1) Any person may be registered as a micro-manufacturer or seller of liquor for consumption, except—
(a) a person who has not attained the age of 21 years at the date of submitting the application for registration;
(b) anyone convicted—
(i) within the preceding five years of any contravention of any law governing the manufacture, distribution or sale of liquor;
(ii) of any offence arising from the trade in drugs; or
(iii) of any offence involving dishonesty;
(c) anyone who is—
(i) an unrehabilitated insolvent; or
(ii) of unsound mind;
(d) a firm that has a director, trustee, partner or member of its board or executive body who falls in the category of persons identified in paragraphs *(a)* to *(c)*;
(e) subject to subitem (2), any person—
(i) that is registered as a manufacturer or a distributor under this Act; or
(ii) in respect of which a manufacturer or distributor registered under this Act has an interest.
(2) Notwithstanding subitem (1)*(e)*, a person contemplated in that subitem may be registered under this item with the approval of the Minister if that registration is consistent with the objects of this Act.

Application to be registered as micro-manufacturer of liquor

8. (1) A person who is not disqualified in terms of item 7 may apply to the relevant provincial liquor authority in the prescribed manner and form to be registered as a micro-manufacturer of liquor.
(2) A provincial liquor authority may—
(a) require further information in support of an application;
(b) permit the applicant to rectify an application within a stipulated period; and
(c) refuse an application made in terms of this item if the applicant has—
(i) not supplied any information required in terms of paragraph *(a)*;
(ii) failed to rectify an application in terms of paragraph *(b)*; or

(iii) not complied with the provisions of this item.

(3) If an application is refused in terms of subitem (2)*(c)*, the provincial liquor authority must notify the applicant in writing and give reasons for the refusal.

(4) If an application complies with the provisions of this item, the relevant provincial liquor authority must in the prescribed manner—

(a) make a copy of the application available for inspection by the public; and

(b) invite the public to comment on, or lodge objections to the application.

(5) The relevant provincial liquor authority must consider the application, make a decision and notify the applicant in writing of that decision within 30 days from the later of any of the following events:

(a) the receipt of the application referred to in subitem (1);

(b) the receipt of the rectification of the application contemplated in subitem (2)*(b)*; or

(c) the receipt of any further information required in terms of subitem (2)*(c)*.

(6) If a provincial liquor authority refuses an application, the authority must give the applicant written reasons for the decision.

(7) If a provincial liquor authority grants registration under this Part, that authority may determine terms and conditions of registration.

Procedure for application to register as seller of liquor for consumption other than at special events

9. (1) The provisions of this item apply only to applications for registration as a seller of liquor for consumption under the categories referred to in item 4(2)*(b)*(i), (ii) and (iii).

(2) A person who is not disqualified in terms of item 7 may apply to the relevant provincial liquor authority in the prescribed manner and form to be registered as a seller of liquor for consumption under the categories referred to in item 4(2)*(b)*(i), (ii) and (iii).

(3) At least 21 days prior to submitting the application for registration as a seller of liquor for consumption in terms of subitem (1), a prospective applicant must—

(a) give notice in the prescribed form and manner of the intention to apply for registration; and

(b) give notice in the prescribed form and manner to the governing body of every education institution or place of worship within the prescribed radius of the premises in respect of which the application is made.

(4) Subject to subitem (6), a provincial liquor authority may—

(a) require further information in support of an application;

(b) permit the applicant to rectify an application within a stipulated period; and

(c) refuse an application made in terms of this item if the applicant has—

(i) not supplied any information required in terms of paragraph *(a)* within a reasonable period;

(ii) failed to rectify an application in terms of paragraph *(b)* within a reasonable period; or

(iii) not complied with the provisions of this item.

(5) A decision to require further information under subitem (4)*(a)* or to permit the rectification of an application under subitem (4)*(b)* must be made within 30 days of the application. The provincial liquor authority may extend this period on good cause shown.

(6) If an application is refused in terms of subitem (4)*(c)*, the provincial liquor authority must notify the applicant in writing and give reasons for the refusal.

(7) If an application complies with the provisions of this item, the relevant provincial liquor authority must in the prescribed manner—

(a) make a copy of the application available for inspection by the public; and

(b) invite the public to comment on or lodge objections to the application within the prescribed period.

(8) If the application complies with the requirements of this item, the provincial liquor authority must commence consultations with the applicant within 30 days of the last day of receipt of public comment or objections to the application.

(9) The purpose of the consultation is to—

(a) consider the merits of the application, including any public comments or objections received; and

(b) determine the terms and conditions, if any, that may be made applicable to the registration.

(10) Within 30 days after the conclusion of the consultations referred to in subitem (8), the provincial liquor authority must consider the application and the content of the consultations and thereafter notify the applicant in writing of its decision.

(11) If the provincial liquor authority decides not to grant registration, the notification must specify the reasons for the decision.

(12) If the provincial liquor authority intends to impose terms and conditions to the registration—

(a) the proposed terms and conditions may not conflict with any provincial legislation or municipal by-law that determines—

(i) the zones in which liquor may not be sold;

(ii) the days on which liquor may be sold; or

(iii) the hours during which liquor may be sold; and

(b) the notification under subitem (10) must inform the applicant—

(i) of the proposed terms and conditions to be imposed and the reasons for them;

(ii) that the applicant has 30 days from the date of service of the notice to respond to the proposed terms and conditions.

(13) The period contemplated in subitem (12)*(b)*(ii) may be extended by the provincial liquor authority on good cause shown by the applicant.

(14) If an applicant who has been served a notice contemplated in subitem (10) read with subitem (12)*(b)*—

(a) does not timeously respond to the notice, the provincial liquor authority must refuse to register the applicant and must notify the applicant in writing of that refusal and the reasons for the decision;

(b) consents to the terms and conditions being imposed, the provincial liquor authority must register the applicant and notify the applicant in writing of its decision;

(c) does not consent to the terms and conditions being imposed, the provincial liquor authority must consider any representations submitted by the applicant and may—

(i) refuse to register the applicant and notify the applicant in writing of that refusal and the reasons for the decision; or

(ii) finally determine the terms and conditions to be imposed on the applicant, notify the applicant in writing of the reasons for retaining or amending a proposed term or condition and register the applicant.

(15) The provincial liquor authority must send a copy of any notice it issues in terms of subitems (10) and (14)*(a)*, *(b)* and *(c)*(ii) to all members of the public who commented or objected to an application made in terms of this item.

(16) If a provincial liquor authority refuses an application, that authority must give the applicant written reasons for the decision.

(17) If a provincial liquor authority grants registration under this Part, that authority may determine terms and conditions of registration.

(18) Within 30 days of receiving the application in respect of the categories contemplated in item 4(2)*(b)*(i), (ii) and (iii), and five days in respect of the category contemplated in item 4(2)*(b)*(iv), the provincial liquor authority must determine—

(a) whether the application complies with the requirements of subitem (2); and

(b) whether it requires any further information from the applicant for purposes of considering the merits of the application.

(19) If, after considering an application, the provincial liquor authority is of the opinion that the application does not comply with the requirements of subitem (2) or that it requires further information, the provincial liquor authority must notify the applicant in writing of the reasons for its decision and inform the applicant that within 30 days from the date of service of the notice in respect of the category contemplated in item 4(2)*(b)*(i) to (iii) and five days in respect of the category contemplated in item 4(2)*(b)*(iv), they must rectify the non-compliance or supply such further information.

(20) The period referred to in subitem (5) may be extended by the provincial liquor authority on good cause shown by the applicant.

Variations of the terms and conditions of registration

10. (1) For the purposes of this section, a variation of the terms and conditions of registration includes the extension or structural alteration of registered premises.

(2) A registered person may not extend or structurally alter the registered premises unless a variation of the terms and conditions of registration is approved by the Member of the Executive Council.

(3) Any registered person that wishes to vary the terms and conditions of its registration must apply in the prescribed manner and form to the Member of the Executive Council.

(4) The Member of the Executive Council must—

(a) make a copy of the application available for inspection by the public; and

(b) invite the public to comment on, or lodge objections to, any application within a prescribed period;

(c) consider the application and any comments received; and

(d) make a decision within 60 days after receipt of the application.

(5) The Member of the Executive Council must inform the applicant in writing of any decision and, if the application is refused, provide written reasons for the refusal.

Cancellation of licences

11. (1) The provincial liquor authority may cancel a licence if the licensed person—

(a) has furnished information in the application for registration or submitted information required in terms of this Act that is not true or complete;

(b) does not comply with the terms and conditions of registration; or

(c) does not comply with the provisions of this Act.

(2) Before the provincial liquor authority cancels a licence, the authority must notify the licensed person in the prescribed manner and form, and permit that person to make representations within the prescribed period.

(3) If the provincial liquor authority has cancelled a licence, the authority must notify the person whose licence has been cancelled in writing of—

(a) the cancellation;

(b) the reasons for the cancellation; and

(c) the date of cancellation.

(4) If a licence is cancelled in terms of this Schedule, the provincial liquor authority must cancel the licence.

(5) A licence is cancelled as of the date on which the provincial liquor authority cancels the licence.

Voluntary cancellation

12. (1) A licensed person may cancel its licence by giving the provincial liquor authority written notice in the prescribed manner and form—

(a) stating the person's intention to voluntarily cancel the licence and reasons for doing so; and

(b) specifying a date, at least 60 days after the date of the notice, on which the cancellation is to take effect.

(2) The provincial liquor authority must cancel the licence on the date specified in subitem (1)*(b)*.

Cancellation as consequence of disqualification

13. (1) If an estate is sequestrated, wound up or dissolved, the administrator of that estate must notify the provincial liquor authority in the prescribed manner and form of that fact within 30 days of the sequestration, winding up or dissolution.

(2) Upon receiving a notice contemplated in subitem 1, the provincial liquor authority must cancel the licence in question.

(3) If a licensed person becomes subject to any other disqualification contemplated in item 7 the provincial liquor authority must cancel the licence.

Power to issue regulation and notices

14. (1) Subject to this item, a Member of the Executive Council may make regulations regarding any matter that may or must be prescribed in terms of this Schedule.

(2) Subject to subitems (3) and (4), the prescribed form for an application for registration under this Schedule must—

(a) specify the category in respect of which registration is sought;

(b) make provision for the particulars of the applicant which, in the case of—
(i) a natural person, must include the applicant's full name, identity number and residential address;
(ii) a company, must include its full name, registration number and the address of its registered office as well as the name, identity number and residential address of each director;
(iii) a close corporation, must include its full name, registration number and the address of its registered office as well as the names, identity numbers and residential addresses of all its members;
(iv) a trust, must include its full name and registration number as well as the names, identity numbers and residential addresses of all its trustees;
(v) an association or a partnership, must include the names, identity numbers and residential addresses of all its members or partners; or
(vi) a co-operative registered in terms of the Co-operatives Act, 1981 (Act No. 91 of 1981), must include the names, identity numbers and residential addresses of all members of its management body;

(c) require a statement confirming that the applicant is not disqualified in terms of item 7 from registering;

(d) require, in respect of the land or premises on or from which the applicant intends to either micro-manufacture, store or sell liquor or liquor-related products, as the case may be—
(i) the physical address and erf, street or farm number;
(ii) if applicable, a description of the premises; and
(iii) the building plan of the premises and an indication on the plan as to which portion of the premises, the liquor or liquor-related products would be manufactured, stored, displayed or sold, as the case may be;

(e) contain a provision confirming the payment of such fee as may be prescribed by the Member of the Executive Council responsible for liquor licensing; and

(f) require any other information that may be necessary to enable the authority to determine whether or not the applicant meets the requirements of registration.

(3) A Member of the Executive Council responsible for liquor licensing may prescribe a form for the application for a licence to sell liquor at a special event that deviates from subitem (2).

(4) The prescribed form for an application to be registered as a seller of liquor for consumption must require proof that at least 21 days prior to submitting the application, the applicant complied with the provisions of item 9(3).

Part D

Compliance

Designation of inspectors

15. (1) The Member of the Executive Council—

(a) may designate any person as an inspector with either general or specific authority to exercise powers in terms of this Schedule or any provincial legislation; and

(b) must issue to each inspector a certificate in the prescribed form stating that a person has been designated as an inspector.

(2) A valid certificate issued in terms of subitem (1)*(b)* is sufficient evidence of the authority of the inspector named on it.

(3) When exercising powers in terms of this Schedule or any provincial legislation, an inspector has the status of a peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

Functions of inspectors

16. (1) An inspector must—

(a) investigate complaints submitted to the inspector in the prescribed manner and form; and

(b) subject to this Schedule or any provincial legislation—
(i) monitor and enforce compliance with the Schedule or the legislation; or
(ii) conduct an inspection under the Schedule or the legislation.

(2) Subject to items 17 and 18 of this Schedule or any provisions of any provincial legislation, an inspector may—

(a) question any person whom the inspector reasonably believes may have information relevant to an inspection;

(b) question any person present on any land or premises being inspected in respect of any matter which may be relevant to the inspection;

(c) inspect any document that—

(i) a person is required to maintain in terms of this Act or any other relevant law; or

(ii) that may be relevant to any liquor related inspection;

(d) copy any document referred to in subitem *(c)*, or if necessary, remove the document in order to copy it;

(e) take samples of any substance that is relevant to the inspection;

(f) for the purpose of the inspection, take photos or make audio-visual recordings of anything or any person, process, action or condition implicated in the inspection on or regarding any land or premises; and

(g) do all things necessary for conducting the inspection.

(3) An inspector who removes anything from land or premises being inspected, must—

(a) issue a receipt for it to the owner or person in control of the premises; and

(b) unless it is a sample contemplated in subitem (2)*(e)*, return it as soon as practicable after achieving the purpose for which it was removed.

(4) An inspector may be accompanied during an inspection by a member of the South African Police Service and any other person reasonably required to assist in conducting the inspection.

Entry of premises with warrant

17. (1) An inspector may enter any premises if a magistrate has issued a warrant to do so in accordance with subitem (2).

(2) A magistrate may issue a warrant to enter and inspect any premises, if, on the basis of information provided in writing and on oath, the magistrate has reason to believe that—

(a) the entry and inspection are necessary to obtain information, in the interest of the public, that cannot be obtained without entering those premises; or

(b) any provision of this Schedule or any provincial legislation is not being complied with.

(3) A warrant in terms of subitem (2) may be issued at any time and must specifically—

(a) identify the premises that may be entered and inspected; and

(b) authorise the inspector to enter and inspect the premises and to do anything contemplated in item 16.

(4) A warrant in terms of subitem (2) is valid until—

(a) it is executed;

(b) it is cancelled by the magistrate who issued it or, in that magistrate's absence, by a person with similar authority;

(c) the purpose for which it was issued has fallen away; or

(d) 90 days have elapsed since the date it was issued.

(5) Before commencing an inspection under a warrant, an inspector must—

(a) if the owner of or a person in control of the premises is present—

(i) provide identification to that owner or person in control of the premises, and explain to that person the authority by which the inspection is being conducted, and show that person the inspector's certificate of designation; and

(ii) hand a copy of the warrant to that person or a person named in it; or

(b) attach a copy of the warrant to the premises in a prominent and visible place if—

(i) the owner is absent and there is no person in control of the premises; or

(ii) the owner or person in control of the premises refuses to accept a copy.

Entry of premises without warrant

18. (1) An inspector who does not have a warrant may—

(a) enter and inspect any premises with the consent of the owner or person in control of the land or those premises; or

(b) on a routine basis, enter and inspect any registered premises no more than six times during a 12-month period.

(2) In addition to the entry permitted in terms of subitem (1), an inspector may without a warrant enter any land or premises in respect of which there is an outstanding compliance notice issued in terms of item 22, for the purpose of determining whether that notice has been complied with.

(3) Before commencing an inspection on any land or premises in terms of this item, the inspector must—

(a) provide identification to the owner or other person in charge of the premises;

(b) explain to that person the authority by which the inspection is being conducted; and

(c) show that person the inspector's certificate of designation.

(4) An entry and inspection without a warrant may be carried out only during normal hours of business.

Use of force

19. (1) An inspector executing a warrant in terms of item 17 may overcome any resistance to entry or inspection by using the force that is reasonably required, including breaking a lock, door or window of the premises to be entered.

(2) Before using force, the person executing the warrant must audibly demand admission and announce the purpose of the entry or inspection, unless that person reasonably believes that doing so may induce someone to destroy, dispose of or tamper with any object or document that is the object of the inspection.

(3) The Member of the Executive Council must compensate anyone who suffers damage caused as a result of forced entry during inspection if no one responsible for the premises was present.

(4) Except in the case of an emergency, force may not be used to effect an entry or conduct an inspection in terms of item 18.

Duty to produce documents, answer questions and assist inspector

20. (1) Any person who is in possession of a document relevant to an inspection must produce that document at the request of the inspector.

(2) An owner or occupier of any land or premises must provide any facility and assistance that is reasonably required by an inspector to conduct an inspection effectively.

(3) Before questioning persons in terms of this Schedule or any provincial legislation, an inspector must inform them of their constitutional rights.

(4) Persons who are questioned by an inspector in terms of this Schedule or any provincial legislation must answer every question truthfully and to the best of his or her ability.

(5) An answer or explanation given to an inspector may not be used or admitted in criminal proceedings against the person who provides it, except in proceedings against that person on a charge relating to—

(a) the administration or taking of an oath;

(b) the making of false statements; or

(c) the failure to answer a lawful question fully and satisfactorily.

Offences regarding inspectors

21. No person may—

(a) refuse to grant an inspector access to premises to which the inspector is duly authorised to have access;

(b) obstruct, interfere or hinder an inspector who is exercising a power or performing a duty in terms of this Schedule or any provincial legislation;

(c) refuse to provide an inspector with a document or information that the person is lawfully required to provide in terms of this Schedule or any provincial legislation;

(d) furnish false or misleading information to an inspector;

(e) unlawfully prevent the owner of any land or premises, or a person working for that owner, from entering the land or premises in order to comply with a requirement of this Schedule or any provincial legislation;
(f) pretend to be an inspector;
(g) falsify an authorisation or a warrant or compliance notice; or
(h) fail to comply with a compliance notice.

(2) No inspector may—
(a) enter any land or premises without a warrant in circumstances requiring a warrant;
(b) act contrary to a warrant;
(c) without authority enter or inspect land or premises; or
(d) disclose any information relating to the financial or business affairs of any person that was acquired in the exercise of any power or performance of any duty in terms of this Schedule or any provincial legislation, except—
(i) to a person who requires that information in order to exercise a power or perform a duty in terms of this Act;
(ii) if the disclosure is ordered by a competent court; or
(iii) if the disclosure is in compliance with the provisions of any law.

Compliance notices

22. (1) If an inspector believes that any provision of this Schedule or a term or condition of registration or licence has not been complied with, the inspector may issue a compliance notice in the prescribed form to the registered person or, in the absence of the registered person, to a person in control of the registered premises.

(2) A compliance notice contemplated in subitem (1) must set out—
(a) the provision that has not been complied with;
(b) details of the nature and extent of the non-compliance;
(c) any steps that are required to be taken and the period within which those steps must be taken; and
(d) any penalty or fine that may be imposed in terms of section 43 or 45 if those steps are not taken.

(3) A compliance notice contemplated in subitem (1) remains in force until an inspector issues a compliance certificate contemplated in subitem (4) in respect of that notice.

(4) If the requirements of a compliance notice have been satisfied, the inspector must issue a compliance certificate.

Objection to compliance notice

23. (1) Any person issued with a compliance notice may object to it by making representations to the Member of Executive Council within—
(a) 21 days of receipt of that notice; or
(b) such longer period as may be allowed by the Member of Executive Council on good cause shown.

(2) After considering any representations by the objector and any other relevant information, the Member of the Executive Council may confirm, modify or cancel any compliance notice or any part of such notice.

(3) The Member of the Executive Council must serve a copy of the decision made in terms of subitem (2) on the objector and, if the objector is not a registered person, on any registered person affected by the notice.

(4) If the Member of the Executive Council 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.

Appeals against order of Member of Executive Council

24. (1) An objector may appeal to the High Court against an order of the Member of Executive Council issued under item 23(3) within 21 days of receipt of the order.

(2) An order made under item 23(3) is suspended pending the final determination of the appeal.

(3) Notwithstanding subitem (1), the High Court may condone a late appeal on good cause shown.

(4) An appeal in terms of this item may involve a complete hearing of and fresh determination on the merits of the matter with or without additional evidence or information.

(5) A court of appeal may confirm the order of the Member of the Executive Council or make such order as it may deem fit in place thereof.

Storage and display of liquor

25. (1) The provisions of this item do not apply to the micro-manufacturers of sorghum beer.

(2) A registered micro-manufacturer must store liquor in a separate place or portion of a manufacturing facility designated for that purpose in the terms and conditions of registration.

(3) A registered seller of liquor for consumption may display liquor only in that part of the premises designated for that purpose in the terms and conditions of the licence or registration.

SCHEDULE 3

TRANSITIONAL PROVISIONS

Definitions

1. For the purposes of this Schedule—
''Liquor Act, 1989'' means the Liquor Act, 1989 (Act No. 27 of 1989);
''Liquor Products Act, 1989'' means the Liquor Products Act, 1989 (Act No. 60 of 1989).

Exemptions, licences and approvals in force before commencement date

2. (1) Despite the repeal of the laws in terms of Schedule 4—
(a) every exemption, licence or approval set out in the first column of Schedule 5 and in force immediately before the date of commencement of this Act, is deemed from that date to be a registration in the category set out in the second column of that Schedule; and
(b) a notice issued under section 33 of the Liquor Act, 1989, in respect of an application for a licence set out in the first column of Schedule 5 and in force immediately before the date of commencement of this Act, is deemed from that date to be a registration set out in the second column of that Schedule.

(2) The conversion of a manufacturer or distributor set out in Schedule 5 is subject to the scrutiny and confirmation of the Minister.

Disposal of interests in other tiers of industry

3. (1) A manufacturer that is deemed to be registered by virtue of the conversion under item 2 must dispose of all of its interests in any person registered or deemed to be registered as a distributor, micro-manufacturer or seller of liquor for consumption within three years of the date of commencement of this Act.

(2) A distributor deemed to be registered by virtue of the conversion under item 2 must dispose of all interests in any person registered or deemed to be registered as a manufacturer, micro-manufacturer or seller of liquor for consumption within three years of the date of commencement of this Act.

(3) A micro-manufacturer that is deemed to be registered by virtue of the conversion under item 2 must dispose of all interests in any person registered or deemed to be registered as a manufacturer, distributor or seller of liquor for consumption within three years of the date of commencement of this Act.

(4) A seller of liquor for consumption deemed to be registered or licensed by virtue of the conversion under item 2 must dispose of all of its interests in any person registered or deemed to be registered as a manufacturer, distributor or micro-manufacturer within three years of the date of commencement of this Act.

(5) The manufacturers, distributors, micro-manufacturers and sellers of liquor for consumption contemplated in subitems (1) to (4) must inform the Minister in the prescribed form within 60 days of the disposal of an interest contemplated in those subitems.

Determinations made in terms of section 51 of Liquor Act, 1989

4. Any determination made in terms of section 51 of the Liquor Act, 1989, lapses three years after the date of commencement of this Act.

Consents granted under section 158(2) of Liquor Act, 1989

5. Any consent granted under section 158(2) of the Liquor Act, 1989, lapses on 31 December of the year following the year in which this Act comes into operation and will on that date cease to be of any force and effect.

Applications before commencement of Act

6. Any application for a licence, exemption or approval under the Liquor Act, 1989 made before the date of commencement of this Act and not disposed of prior to that date, must be disposed of in terms of that Act despite its repeal.

Liquor boards

7. (1) The liquor boards established under section 5 of the Liquor Act, 1989 are deemed to be the provincial liquor authorities under Schedule 2 until the Member of the Executive Council has appointed members of the provincial liquor authority for the province under item 3(2) of Schedule 2.

(2) The Member of the Executive Council must appoint members of the provincial liquor authority under item 3(2) of Schedule 2 within 2 years of the date of commencement of this Act.

SCHEDULE 4

REPEAL OF LAWS

Section 57

No. and year of law	Short title	Extent of repeal
Act No. 27 of 1989	Liquor Act, 1989	The whole
Act No. 60 of 1989	Liquor Products Act, 1989	Section 32 in respect of its amendment of the Liquor Act, 1989
Act No. 44 of 1993	Airports Company Act, 1993	Section 35
Act No. 105 of 1993	Liquor Amendment Act, 1993	The whole
Act No. 57 of 1995	Liquor Amendment Act, 1995	The whole

SCHEDULE 5

CONVERSION OF EXEMPTIONS, LICENCES AND APPROVALS

(Section 57 read with item 2(1)*(a)* of Schedule 3)

Kind of exemption, licence or approval in force immediately before the date of commencement of this Act	**Category of registration deemed to be in force from the date of commencement of this Act**
An exemption in terms of section 3(1)*(e), (f), (g), (h), (j)* or *(k)* or (2) of the Liquor Act, 1989, (Act No. 27 of 1989)	A registration for the sale of liquor for consumption contemplated in item 4(2)*(b)*(i), (ii), (iii) or (iv) of Schedule 2, as the case may be, for a period of three years, after which the registration lapses.
An exemption referred to in section 4(1) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption contemplated in item 4(2)*(b)*(i), (ii), (iii) or (iv) of Schedule 2, as the case may be, for a period of three years after which the registration lapses.
A hotel liquor licence referred to in section 20*(a)*(i) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption on the premises on which liquor is being sold, contemplated in item 4(2)*(b)*(ii) of Schedule 2.
A restaurant liquor licence referred to in section 20*(a)*(ii) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption on the premises on which liquor is being sold, contemplated in item 4(2)*(b)*(ii) of Schedule 2.
A wine-house licence referred to in section 20*(a)*(iii) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption on the premises on which liquor is being sold, contemplated in item 4(2)*(b)*(ii) of Schedule 2.
A theatre liquor licence referred to in section 20*(a)*(iv) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption on the premises on which liquor is being sold, contemplated in item 4(2)*(b)*(ii) of Schedule 2.
A club liquor licence referred to in section 20*(a)*(v) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption on the premises on which liquor is being sold, contemplated in item 4(2)*(b)*(ii) of Schedule 2.
A sorghum beer licence referred to in section 20*(a)*(vi) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption on the premises on which liquor is being sold, contemplated in item 4(2)*(b)*(ii) of Schedule 2.
A special licence referred to in section 20*(a)*(vii) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption on the premises on which liquor is being sold, contemplated in item 4(2)*(b)*(ii) of Schedule 2.
A temporary liquor licence referred to in section 20*(a)*(viii) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption at a special event contemplated in item 4(2)*(b)*(iv) of Schedule 2.
An occasional licence referred to in section 20*(a)*(ix) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption at a special event contemplated in item 4(2)*(b)*(iv) of Schedule 2.
A wholesale liquor licence referred to in section 20*(b)*(i) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the distribution of liquor under this Act: Provided that the conversion may be subject to any terms and conditions of registration that the Minister may impose.
A wholesaler (manufacturer) that was granted a licence referred to in section 20*(b)*(i) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the manufacturers of liquor under this Act: Provided that the conversion may be subject to any terms and conditions of registration that the Minister may impose.

Kind of exemption, licence or approval in force immediately before the date of commencement of this Act	**Category of registration deemed to be in force from the date of commencement of this Act**
A brewer's licence referred to in section 20*(b)*(ii) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the manufacture of liquor under this Act if the holder of the brewer's licence deals in a volume of liquor that exceeds the prescribed volume or a registration as a micro-manufacturer if the holder of the brewer's licence does not deal in a volume of liquor that exceeds the prescribed volume: Provided that the conversion to a registration as a manufacturer may be subject to any terms and conditions of registration that the Minister may impose.
A liquor store licence referred to in section 20*(b)*(iii) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption off the premises on which liquor is being sold, contemplated in item 4(2)*(b)*(i) of Schedule 2.
A grocer's wine licence referred to in section 20*(b)*(iv) of he Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption off the premises on which liquor is been sold, contemplated in item 4(2)*(b)*(i) of Schedule 2 subject to item 7 of Schedule 3.
A wine farmer's licence referred to in section 20*(b)*(v) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the manufacture of liquor under this Act if the holder of the wine farmer's licence deals in a volume of liquor that exceeds the prescribed volume or a registration as a micro-manufacturer if the holder of the wine farmer's licence does not deal in a volume of liquor that exceeds the prescribed volume: Provided that the conversion to a registration as a manufacturer may be subject to any terms and conditions of registration that the Minister may impose.
A sorghum beer brewer's licence referred to in section 20*(b)*(vi) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the manufacture of liquor under this Act if the holder of the sorghum beer brewer's licence deals in a volume of liquor that exceeds the prescribed volume or a registration as a micro-manufacturer if the holder of the sorghum beer brewer's licence does not deal in a volume of liquor that exceeds the prescribed volume: Provided that the conversion to a registration as a manufacturer may be subject to any terms and conditions of registration that the Minister may impose.
A sorghum beer licence referred to in section 20*(b)*(vii) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption off the premises on which liquor is being sold, contemplated in item 4(2)*(b)*(i) of Schedule 2.
A special licence referred to in section 20*(b)*(viii) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption off the premises on which liquor is being sold, contemplated in item 4(2)*(b)*(i) of Schedule 2.
A producer's licence referred to in section 20*(b)*(ix) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the manufacture of liquor under this Act if the holder of the producer's licence deals in a volume of liquor that exceeds the prescribed volume or a registration as a micro-manufacturer if the holder of the producer's licence does not deal in a volume of liquor that exceeds the prescribed volume: Provided that the conversion to a registration as a manufacturer may be subject to any terms and conditions of registration that the Minister may impose.

Kind of exemption, licence or approval in force immediately before the date of commencement of this Act	**Category of registration deemed to be in force from the date of commencement of this Act**
An approval granted in terms of section 60 of the Liquor Act, 1989 (Act No. 27 of 1989), to a holder of a wine-house licence	A registration for the sale of liquor for consumption off the premises on which liquor is being sold, contemplated in item 4(2)*(b)*(i) of Schedule 2.
A sports ground liquor licence referred to in section 189 of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption on the premises on which liquor is being sold, contemplated in item 4(2)*(b)*(ii) of Schedule 2.
A special licence referred to in section 20*(a)*(vii) of the Liquor Act, 1989 (Act No. 27 of 1989)	A registration for the sale of liquor for consumption on and off the premises on which liquor is being sold, contemplated in item 4(2)*(b)*(iii) of Schedule 2.

MEMORANDUM ON THE OBJECTS OF THE LIQUOR BILL, 2003

1. BACKGROUND

The Department of Trade and Industry (hereinafter referred to as ''the DTI'') and the provincial departments responsible for liquor matters jointly embarked on an extensive exercise to evaluate the existing legislation regulating the manufacture, distribution and sale of liquor for consumption in 1994. An analysis of existing liquor legislation and the state of the liquor industry was conducted in 1996. The outcome of the joint review was a new policy on liquor regulation and draft legislation, which were approved by the Members of the Executive Council responsible for liquor matters through a series of MinMec meetings. The Liquor Policy and the draft Liquor Bill were published for public comment in July 1997. Their publication was followed by extensive consultation with stakeholders at national and provincial level.

The Liquor Bill, 1998 was tabled in Parliament in August 1998 and was approved on 2 November 1998, whereafter the Bill was referred to the President for his assent. The President had reservations about the constitutionality of the Bill and accordingly referred it to the Constitutional Court under section 84(2) of the Constitution of the Republic of South Africa 1996 (Act No. 108 of 1996). The Constitutional Court held in Ex Parte President of the RSA In re: Constitutionality of the Liquor Bill, 2000 (1) BCLR (CC) that the Bill was unconstitutional in certain respects. The Liquor Bill, 2003, was drafted with a view to complying with that judgment.

The Bill does not regulate the micro-manufacture or the sale of liquor for consumption except by default. The provincial governments are free to legislate, subject to certain public interest prohibitions in Chapter 2 of the Bill, certain provisions concerning cross holdings across the three tiers of industry in Chapter 4 and the national norms and standards set out in Schedule 1 to the Bill. These provisions are minimal in content, but are necessary to maintain economic unity, essential national standards and minimum standards required for the rendering of services.

Another new element introduced in the Bill is the establishment of the National Liquor Policy Council, which consists of the Minister of Trade and Industry and the relevant Members of the Executive Council of the provinces. This body is responsible for policy formulation and co-ordination and it gives expression and content to the concept of co-operative governance.

The Bill also provides for public interest prohibitions, the regulation of the three tiers of the industry, the powers of inspection and default provisions.

2. OBJECTS OF BILL

The objects of the Bill are—

(a) to reduce the socio-economic and other costs of alcohol consumption by—
- (i) setting essential national norms and standards in the liquor industry;
- (ii) regulating the manufacture and wholesale distribution of liquor;
- (iii) ensuring that the retail sale and micro-manufacture of liquor is regulated;
- (iv) maintaining economic unity in the structure of the liquor industry; and

(b) to promote the entry of new participants into the liquor industry, a diversity of ownership and an ethos of social responsibility in the industry.

3. ORGANISATIONAL AND PERSONNEL IMPLICATIONS

As the Bill provides that the DTI is responsible for the licensing and inspection of national manufacturing and for wholesale licences, the Bill requires the DTI to have sufficient capacity to deal with these functions. The Department has provided for a Deputy Director and two Assistant Directors for the licensing and inspection functions.

4. FINANCIAL IMPLICATIONS

Sufficient funds are available in the current budget for the additional staff required to perform the licensing and inspection functions. Provision has also been made in the Medium Term Expenditure Framework.

5. COMMUNICATION IMPLICATIONS

As the Bill has been previously consulted on and does not constitute a departure from previously agreed policy, no public consultation process is envisaged, save through the parliamentary process. However, once the Bill becomes law, extensive communication with industry and other stakeholders will occur through provincial workshops and through the national media.

6. CONSTITUTIONAL IMPLICATIONS

The constitutional concerns have been addressed in the new Bill. It is therefore not anticipated that further constitutional matters will arise.

7. OTHER DEPARTMENTS/BODIES CONSULTED

The content of the Bill was agreed upon between the Minister of Trade and Industry and the Members of the Executive Council responsible for liquor matters in each province.

8. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Trade and Industry are of the opinion that the Bill must be dealt with in accordance with the procedure established by section 76(1) of the Constitution since it involves an intervention in terms of section 44(2) of the Constitution.