

# **ACT**

**To reduce the socio-economic and other costs of alcohol abuse; to promote development of a responsible and sustainable liquor industry; to establish a Liquor Authority responsible for the registration of micro-manufacturers and retail sellers; to provide an application procedure for such registration; to provide for conditions for registration; to establish an effective enforcement and complaints mechanism; and to provide for matters incidental thereto.**

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**BE IT ENACTED** by the Provincial Legislature of the Free State Province as follows:

*(English text assented to and signed by the Premier.)*

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**CHAPTER 1**  
**DEFINITIONS, INTERPRETATION, OBJECTS AND APPLICATION OF ACT**

**Definitions and interpretation**

1. (1) In this Act, unless the context indicates otherwise - 10

“**accommodation establishment**” means any place in or upon which the business of providing accommodation with or without meals is conducted for gain; 15

“**applicant**” means a person who has applied to be registered in terms of this Act;

“**Authority**” means the Free State Liquor Authority established in terms of this Act; 20

“**authorised dealer**” has a similar meaning as used in the Methylated Spirits Regulations issued in terms of the National Liquor Act;

“**beer**” includes- 25

(a) ale, cider and stout; and

(b) any other fermented drink, other than traditional African beer- 30

(i) that is manufactured as, or sold under the name of, beer, ale, cider or stout, if it contains more than one per cent by volume of alcohol; or

(ii) that is declared to be beer under section 42(2)(a) of the National Liquor Act; 35

“**chief executive officer**” means the chief executive officer appointed in terms of section 15(1);

“**concoction**” means any substance that is unsafe for human consumption; 40

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**control**” has a similar meaning as contemplated in the Competition Act, 1998 (Act No. 89 of 1998); 45

“**department**” means the provincial department responsible for liquor matters in the Province;

“**domestic partnership**” means the conjugal or non-conjugal domestic relationship between unmarried people of the same or opposite sex;

“**gaming**” means the playing of any casino game as contemplated in the Free State Gambling and Racing Act, 1996 (Act No. 6 of 1996) and “**gambling**” has a similar meaning;

“**Head of Department**” means the Head of the department responsible for liquor matters in the Province; 5

“**inspector**” means a person designated as such in terms of section 62;

“**liquor**” means - 10

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

(b) beer or traditional African beer; or 15

(c) any other substance or drink declared to be liquor under section 42(2)(a) of the National Liquor Act;

“**liquor matters**” include methylated spirits and “**liquor-related**” has a similar meaning; 20

“**municipality**” means a category A or C municipality as defined in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

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“**manufacture**” means to produce or bottle liquor or methylated spirits for the purpose or with the intent of selling it;

“**MEC**” means a Member of the Executive Council responsible for liquor matters;

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“**methylated spirits**” means spirits denatured in accordance with any law on the denaturation or methylation of spirits or any other denatured, medicated, perfumed or otherwise treated spirit declared to be “**methylated spirit**” under any law;

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“**micro-manufacturer**” means a person registered as such to manufacture liquor or methylated spirits at or below the threshold volume prescribed by the National Liquor Act;

“**minor**” means a person who has not attained the age of 18 years; 40

“**National Liquor Act**” means the Liquor Act, 2003 (Act No. 59 of 2003), including any regulations made under it;

“**National Minister**” means Minister as defined in section 1 of the National Liquor Act; 45

“**official languages**” means provincial languages, namely Sesotho, English and Afrikaans languages;

“**person**” includes a trust, and any other entity mentioned in the definition of “**person**” set out in the Interpretation Act, 1957 (Act No. 33 of 1957);

“**premises**” includes any place, land, building or conveyance, or any part of it;

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“**prescribe**” means prescribe by regulation in terms of this Act and “**prescribed**” has a similar meaning;

“**Province**” means the Free State Province as established by section 103 of the Constitution and “**provincial**” has a similar meaning;

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“**public transport**” means transport which the public have a right to use;

“**register**”, when used as a noun, means the register referred to in section 41;

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“**registered person**” means -

(a) a micro-manufacturer or retail seller; or

(b) a person acting in the capacity of an employee or agent of a person referred to in paragraph (a);

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“**registered premises**” means premises that have been registered in terms of this Act;

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“**registrant**” means a person who has been registered in terms of this Act;

“**regulation**” means a regulation made under this Act;

“**retail sale**” means the sale of liquor or methylated spirits for the purpose of consumption;

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“**retail seller**” means a person who is registered to sell liquor or methylated spirits, or make liquor or methylated spirits available for sale, for the purpose of consumption;

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“**sell**” includes exchange, offer, display, deliver, supply or dispose of, for sale, or authorise, direct or allow a sale;

“**supply**”, with regard to any liquor or methylated spirits, means to place a person in possession or control of that liquor or methylated spirits, respectively;

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“**tavern**” means a place whose main business is the supply of liquor, food and various forms of entertainment;

**“traditional African beer” -**

- (a) has the meaning determined in terms of the Customs and Excise Act, 1964 (Act No. 91 of 1964), if any; or
- (b) in the absence of a meaning contemplated in paragraph (a), has the meaning set out in Schedule 1 of the National Liquor Act;

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**“this Act”** includes any schedule, and a regulation or notice made under this Act; and

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**“ward”** means a ward as demarcated for purposes of local government elections.

- (2) For all purposes of this Act, the question whether, at the time of producing, bottling or acquiring any liquor or methylated spirits, a person did so for the purpose or with the intention of selling that liquor or methylated spirits is a matter of fact to be inferred from the circumstances, including but not limited to -

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- (a) the frequency and quantity of liquor or methylated spirits produced, bottled or acquired by that person;

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- (b) the frequency and quantity of sales of liquor or methylated spirits by that person;

- (c) the existence or absence of any evidence that-

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- (i) at the time that liquor or methylated spirits was acquired, the person could reasonably have expected that the acquisition and retention of that liquor or methylated spirits could result in commercial gain; or

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- (ii) the person acquired or retained the liquor or methylated spirits with the expectation of realising a commercial gain;

- (d) the existence or absence of evidence of advertising, promotional or marketing activity by that person relating to the sale of liquor or methylated spirits; and

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- (e) the nature of any relationship between that person and a registered person.

**Objects of Act**

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2. The objects of this Act are -

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

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- (i) implementing essential national norms and standards in the liquor industry as determined by the National Liquor Act;

- (ii) regulating the micro-manufacturing and retail sale of liquor or methylated spirits; and
  - (iii) providing for public participation in the consideration of applications for registration; and 5
- (b) to promote the development of a responsible and sustainable liquor industry in a manner that facilitates -
- (i) the entry of new participants into the industry; 10
  - (ii) diversity of ownership in the industry;
  - (iii) an ethos of social responsibility in the industry; and 15
  - (iv) local tourism and economic growth.

**Application of Act and official languages**

- 3. (1) This Act applies to all retail sale, consumption and micro-manufacturing of liquor or methylated spirits. 20
- (2) Any application for registration, removal or transfer of registration or any transaction or proceedings in terms of this Act, must be in one of the official languages. 25

**CHAPTER 2  
RESTRICTIONS**

**Prohibitions** 30

- 4. (1) No person may undertake –
  - (a) the micro-manufacturing of liquor or methylated spirits; or 35
  - (b) the retail sale of liquor or methylated spirits,  
without being duly registered to do so in terms of this Act.
- (2) No person may manufacture, sell, supply as liquor or beer or have in his or her possession a concoction. 40

**Registered activities from registered premises**

- 5. (1) A registrant may carry out its registered activities only in or from registered premises and in accordance with this Act and any applicable conditions of registration. 45



- (2) A registrant may store liquor or methylated spirits only in registered premises, and in accordance with applicable legislation and conditions of registration.

**Prohibitions regarding employment in liquor industry**

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6. (1) Despite any law or agreement to the contrary, a registered person must not employ a person who has not yet attained the age of 16 in any activity relating to the micro-manufacturing or retail sale of liquor or methylated spirits unless the employee is undergoing training or a learnership contemplated in section 16 of the Skills Development Act, 1998 (Act No. 97 of 1998). 10
- (2) Despite any agreement to the contrary, an employer must not-
- (a) supply liquor or methylated spirits to any person as an inducement to employment; 15
- (b) supply liquor or methylated spirits to an employee as or *in lieu* of wages or remuneration; or
- (c) deduct from an employees' wages or remuneration any amount relating to the cost of liquor or methylated spirits - 20
- (i) supplied to the employee or to a person on behalf of the employee; or
- (ii) purchased by, or on behalf of, the employee. 25

**Advertising restrictions**

7. (1) A person must not advertise - 30
- (a) liquor or methylated spirits -
- (i) in a false or misleading manner;
- (ii) in a manner intended to target or attract minors; or 35
- (b) a substance that is prohibited in terms of this Act.
- (2) A person must not advertise a substance as liquor or methylated spirits if that substance is not liquor or methylated spirits as defined in this Act. 40

**Prohibition of supply of liquor or methylated spirits to minor**

8. (1) A person must not sell or supply liquor or methylated spirits to a minor.

- (2) Despite subsection (1), the parent, adult guardian of a minor or a person responsible for administering a religious sacrament, may on occasion supply to that minor a moderate quantity of liquor to be consumed by the minor in the presence and under the supervision of that parent, guardian or other person. 5
- (3) A person must take reasonable measures to determine accurately whether or not a person is a minor, before selling or supplying liquor or methylated spirits to that person. 10
- (4) A minor must not make a false claim about age in order to induce a person to sell or supply liquor or methylated spirits to him or her. 15
- (5) A person must not make a false claim about the age of a minor in order to induce a person to sell or supply liquor or methylated spirits to the minor. 15
- (6) A minor must not supply liquor or methylated spirits to another person. 15

**CHAPTER 3**  
**FREE STATE LIQUOR AUTHORITY**

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**Establishment of the Authority**

9. The Free State Liquor Authority is hereby established as an independent juristic person.

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**Composition of the Authority**

10. (1) The members of the Authority must be appointed by the MEC and must consist of –

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- (a) one employee of the department designated by the MEC;
- (b) one member of the South African Police Service designated or seconded by the Provincial Commissioner in consultation with the Member of the Executive Council for Safety and Security, with the rank of at least a Captain;
- (c) one employee designated by the Member of the Executive Council responsible for local government;
- (d) not more than six (6) other persons.

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- (2) A member appointed in terms of subsection (1) may resign by giving not less than 30 days written notice to the MEC.

- (3) The MEC must appoint the chairperson and deputy chairperson of the Authority.

**Powers of the Authority**

11. (1) The Authority may: 5
- (a) consider, grant or refuse applications in terms of this Act relating to -
    - (i) the micro-manufacturing of liquor or methylated spirits; or 10
    - (ii) retail sale of liquor or methylated spirits,  
in the Province;
  - (b) cancel, suspend or vary a registration approved by it in the manner contemplated by this Act; 15
  - (c) furnish a report or recommendation to the MEC on a matter referred to it or concerning a matter referred to in paragraph (a); 20
  - (d) exercise any other power conferred or imposed in terms of this Act.
- (2) The Authority may grant registration in respect of the following registration categories - 25
- (a) micro-manufacturing of liquor or methylated spirits;
  - (b) retail sale of liquor for consumption on the premises; or
  - (c) retail sale of liquor or methylated spirits for consumption off the premises. 30

**Disqualification from being a member of the Authority**

12. No person may be appointed or serve as a member of the Authority if such person - 35
- (a) is not a citizen of the Republic of South Africa resident in the Province;
  - (b) is an unrehabilitated insolvent;
  - (c) has direct interest in the liquor trade; 40
  - (d) has been convicted of contravening this Act or any other liquor legislation;

- (e) is the spouse of or is in a domestic partnership with a person with a direct interest in the liquor trade; or
- (f) is or becomes mentally ill as contemplated in the Mental Health Care Act, 2002 (Act No. 17 of 2002).

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**Termination of office**

- 13. (1) The MEC may, after he or she has afforded a member of the Authority an opportunity to state his or her case, at any time terminate the term of office of the member if –
  - (a) there are good reasons for doing so and it is in the best interest of the Authority and the proper control and regulation of liquor matters;
  - (b) he or she is disqualified to remain a member of the Authority in terms of section 12;
  - (c) he or she has been absent for more than two consecutive meetings of the Authority without leave of the chairperson.
- (2) The MEC may, subject to section 14, fill any casual vacancy on the Authority for a period as the MEC may determine.

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**CHAPTER 4**

**REMUNERATION AND ADMINISTRATION OF THE AUTHORITY**

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**Term of office and remuneration of members of the Authority**

- 14. (1) A member of the Authority must be appointed for a term not exceeding three (3) years as the MEC may determine and is eligible for reappointment at the end of the initial term.
- (2) No person is eligible for reappointment for more than two (2) consecutive terms.
- (3) Members of the Authority, who are not in the full-time service of the State or the Province, may in respect of their services, be paid such remuneration and allowances as may be determined by the MEC after consultation with the Member of the Executive Council responsible for Finance in the Province.

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**Appointment of chief executive officer**

- 15. (1) The MEC must, after consultation with the Authority, appoint a chief executive officer for a period not exceeding five (5) years.
- (2) The chief executive officer must hold office on such conditions (including the payment of remuneration and allowances) as determined by the MEC.

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- (3) The chief executive officer is *ex officio* a member of the Authority.
- (4) The chief executive officer must not be disqualified in terms of section 12.

**Vacation of office by chief executive officer** 5

16. (1) The chief executive officer must vacate his or her office if –
- (a) he or she resigns; 10
  - (b) he or she is removed from office by the MEC on good reason for doing so and it is in the best interest of the Authority and the proper control and regulation of liquor matters.
- (2) If the chief executive officer ceases to hold office, the MEC must, within a reasonable period and subject to the provisions of section 15, appoint another chief executive officer. 15

**Staff of the Authority** 20

17. The Authority -
- (a) must define posts necessary to perform functions of the Authority;
  - (b) may appoint staff that are necessary to perform functions of the Authority; 25
  - (c) must, in consultation with the MEC, determine the conditions of service, including the remuneration and allowances of the staff of the Authority.

**Administration of the Authority** 30

18. (1) The Authority must, after consultation with the chief executive officer, determine a code of conduct, applicable to all members of staff of the Authority and justifiable for purposes of disciplinary proceedings, to ensure – 35
- (a) compliance with applicable law;
  - (b) the effective, efficient and economical use of the Authority's funds and resources; 40
  - (c) the promotion and maintenance of a high standard of ethics;
  - (d) the prevention of conflicts of interest;
  - (e) the protection of confidential information held by the Authority; and 45

- (f) professional, honest, impartial, fair, ethical and equitable service.
- (2) The Authority may utilize the services of persons seconded or transferred from the public service in accordance with the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994). 5
- (3) The chief executive officer has the power to engage in such financial transactions as may be required for the operation of a public entity including but not limited to the power to enter into partnerships with other government organs and to engage the services of contractors and service providers. 10
- (4) The chief executive officer may acquire furniture and equipment for use by the Authority and the administrative staff.
- (5) The Authority may, in consultation with the MEC, - 15
  - (a) enter into lease agreements;
  - (b) encumber its assets; and 20
  - (c) enter into agreements for the provision of services relating to human resource management and financial management.
- (6) The chief executive officer must promote the responsible sale, supply and consumption of liquor or methylated spirits and combat the negative social consequences of liquor or methylated spirits abuse and may take such action as he or she may deem fit. 25

**Sittings of the Authority**

- 19. (1) The sittings of the Authority must be held on dates, times and place, as may be determined by the chairperson. 30
- (2) The quorum for the sittings of the Authority is 50 % of the members plus one, of which at least the following must be present – 35
  - (a) the chairperson or the deputy chairperson; and
  - (b) a person contemplated in section 10(1)(b). 40
- (3) The decision of the majority of the members present at a sitting of the Authority is a decision of the Authority and in the event of an equality of votes the chairperson has a casting vote in addition to his or her deliberative vote. 40
- (4) A deputy chairperson must preside over meetings when the chairperson is absent or unable to preside. 45

- (5) If the chairperson and deputy chairperson are absent, the MEC must appoint another member as acting chairperson.

**Record of sittings**

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20. (1) The record of the sittings of the Authority must be compiled and the chairperson must ensure that such a record is circulated to all members of the Authority on or before the next sitting of the Authority. 5
- (2) The record must be adopted at the next sitting of the Authority and, in the absence of proof to the contrary, is regarded to be a true and correct record of the sitting which it purports to record. 10
- (3) The record adopted in terms of subsection (2) constitutes *prima facie* evidence of the meeting of the Authority. 15
- (4) Record of proceedings of the Authority must be kept by the chief executive officer and retained at the offices of the Authority and are available to any person for the purpose of perusing or copying subject to the payment of the prescribed fee and subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000). 20

**Financial matters**

21. (1) The funds of the Authority consist of – 25
- (a) money appropriated by the provincial legislature; and
- (b) money accruing to the Authority from another source approved by the MEC, after consultation with the Member of the Executive Council responsible for finance, including fees accruing in terms of this Act. 30
- (2) Financial management of the Authority must be done subject to and in accordance with the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999) and documents issued in terms thereof. 35
- (3) The Authority is accountable to the Provincial Legislature.
- (4) Revenue accruing to the Authority, except money excluded by national legislation, must be paid annually into the Provincial Revenue Fund as contemplated in the Public Finance Management Act, 1999. 40

**Audit of Authority**

22. The financial statements of the Authority must be audited by the Auditor General. 45

## CHAPTER 5 REGISTRATION PROCESS

### Registration

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23. (1) A person, who is not disqualified as contemplated in subsection (3), including any registered person, may apply in the prescribed manner and form, to be registered as a micro-manufacturer or retail seller of liquor, or both.
- (2) Subject to the National Liquor Act, a micro-manufacturer or an authorised dealer of methylated spirits may apply in the prescribed manner and form, to be registered as a micro-manufacturer or authorised dealer of methylated spirits. 10
- (3) Any person may be registered as a micro-manufacturer or retail seller of liquor or methylated spirits, or both, except a person who - 15
- (a) is a minor at the date of submitting the application for registration;
- (b) is an unrehabilitated insolvent; 20
- (c) at the time of consideration of the application is committed in terms of the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (d) has been convicted of a contravention of this Act or any other liquor legislation within the three years immediately preceding the date of application; or 25
- (e) has been convicted, under applicable legislation, of an offence the elements of which are inconsistent with the objects and purposes of this Act, at any time - 30
- (i) after the coming into operation of this Act; and
- (ii) within the three years immediately preceding the date of application. 35

### Determination of application

24. (1) The Authority may -
- (a) require further information relevant to an application; and 40
- (b) refuse an application if the applicant has not supplied all information required in terms of paragraph (a) within the prescribed time.
- (2) If the application complies with the provisions of the Act, the Authority must further consider the application, relating to the following criteria: 45



- (a) The applicant's proposed contribution to combating alcohol abuse, including whether the applicant has subscribed to any industry code of conduct approved by the National Minister as contemplated in section 13(1)(b) of the National Liquor Act; and 5
- (b) The extent to which the proposed registration may materially restrict or promote -
  - (i) new entrants to the liquor industry; 10
  - (ii) job creation within the liquor industry;
  - (iii) diversity of ownership within the liquor industry;
  - (iv) efficiency of operation of the liquor industry; or 15
  - (v) competition within the liquor industry.
- (3) For a micro-manufacturing registration, the Authority may consider the applicant's commitment to black economic empowerment. 20
- (4) When considering application for registration, the Authority must take due regard of issues of –
  - (a) public interest; 25
  - (b) proximity of the proposed premises to –
    - (i) institutions of learning; or 30
    - (ii) places of worship;
    - (iii) existing outlets;
  - (c) the ratio of population vis-à-vis the number of outlets in the relevant ward; 35
  - (d) the report of the relevant municipality received in terms of section 27(3); and
  - (e) the reports, views, comments and objections contemplated in sections 28 to 31; 40
- (5) After considering the application and all relevant factors the Authority may either - 45
  - (a) register the applicant, subject to section 25 and Chapter 6; or

(b) refuse to register the applicant.

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

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**Conditions of registration**

25. (1) Registration is subject thereto that reasonable access be given to the relevant premises for purposes of inspection by members of the South African Police Service and inspectors.

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(2) The Authority may also issue the registration subject to any other reasonable conditions.

(3) Registration must not be for a period longer than five (5) years, but an application may be submitted anew in terms of the provisions of this Act.

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**Certificate, validity and public notice of registration**

26. (1) Upon registering an applicant, the Authority must –

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(a) issue a prescribed certificate of registration to the applicant; and

(b) enter the registration in the register.

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(2) A valid certificate of registration is sufficient proof that the registrant is registered in terms of this Act.

(3) A registration -

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(a) takes effect on the date on which the applicant pays the prescribed registration fees; and

(b) remains in effect until –

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(i) the registration is cancelled in terms of this Act; or

(ii) the registration certificate expires.

(4) A certificate issued under subsection (1), must -

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(a) at all times be displayed by the holder in a conspicuous place in or on the premises to which such certificate refers;

(b) be kept by the holder in a clearly legible condition, as issued; and

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(c) be produced by the holder or his or her agent to an inspector or designated police officer, on demand.

(5) Where a certificate is lost or destroyed or becomes useless or illegible, the certificate holder may apply, in writing, to the Authority for the issue of a duplicate certificate and, if the Authority is convinced that the certificate has indeed been lost or destroyed or has become useless or illegible, it shall issue a duplicate certificate, upon surrender of the useless or illegible certificate, depending on the case. 5

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**Application procedure for registration**

27. (1) Every application for a new registration must be submitted at the relevant municipality in which area the registration is sought.

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(2) Every application for a new registration must provide or be accompanied by –

(a) a detailed written motivation in support of the registration applied for;

(b) the building plans of the premises as approved by the relevant municipality; 20

(c) a detailed written description of external and internal features of the premises to which the application relates;

(d) proof of publication in the *Provincial Gazette* and in at least one local newspaper normally circulated in the ward where the premises is situated; 25

(e) proof of payment of the prescribed application fee into the account of the Authority; 30

(f) the full business address and location of the premises to which the application relates; and

(g) a certified copy of the identity document of the applicant or a certified proof in the case of trust, consortium, partnership or legal entity. 35

(3) On receipt of the application, the municipality must -

(a) forward the application to the Authority; and

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(b) prepare a report for submission to the Authority within the prescribed time and which includes the information described in section 28(3).

- (4) On receipt of the application by the Authority, said Authority must request -
  - (a) a report by a liquor inspector regarding the application which includes the information contemplated in section 28(1); 5
  - (b) a report from the South African Police Service regarding the application, which must include information regarding the suitability of the applicant and the information contemplated in section 28(2).

**Reports on application** 10

- 28. (1) A report by a liquor inspector envisaged in section 27 must provide details on those matters prescribed or which ought, in the opinion of the liquor inspector, have to be taken into consideration in respect of application concerned. 15
- (2) A report by a designated police officer envisaged in section 27 must provide details of those matters prescribed and matters which ought, in the opinion of the designated police officer, to be taken into consideration in respect of the application concerned. 20
- (3) A report from the relevant municipality as envisaged in section 27 must provide information on -
  - (a) the zoning of the relevant premises; 25
  - (b) the impact on surrounding traffic patterns, traffic congestion, entrances and exits to and from the premises and parking requirements;
  - (c) environmental health; or 30
  - (d) any other matter which, in the opinion of the municipality, ought to be taken into consideration in respect of the application for registration.

**Objections** 35

- 29. (1) Any person may, in the prescribed manner, lodge an objection to the granting of a registration within 21 days from date of publication of the notice in the *Provincial Gazette*. 35
- (2) The objection must state full reasons and contain full particulars and contact details of the objector and be accompanied by supporting documents. 40

### **Response to objections**

30. The applicant must, within a period of 14 days of receipt from the Authority of the objection lodged in terms of section 29, make a written response to the Authority and submit a copy thereof to the objector. 5

### **Hearing of objections**

31. (1) The Authority may convene a sitting to consider any objections to the application in question, on a date, time and place as determined by the chairperson. 10
- (2) The applicant and a person who has lodged an objection to the application, must be afforded an opportunity to be heard and may be represented by a person of their choice. 15
- (3) A hearing may be adjourned and resumed on a date, time and a place as the Authority may determine.

### **Application, registration and renewal fees**

32. (1) The MEC may prescribe - 20
- (a) an application fee to be paid in connection with any application in terms of this Act; 25
- (b) registration fee to be paid upon registration; and
- (c) an annual renewal fee to be paid by registrants.
- (2) The MEC may prescribe different fees in terms of subsection (1) for different categories of applicants or registrants. 30

### **Variation of conditions of registration**

33. (1) The Authority may reconsider, and vary the conditions of registration of a registrant, in any of the following circumstances: 35
- (a) If the registrant has notified the Authority of a material alteration contemplated in subsection (2); 40
- (b) Upon request by the registrant submitted to the Authority in the prescribed manner and form.
- (2) A registrant must notify the Authority in the prescribed manner and form if it proposes to - 45
- (a) relocate any of the activities authorised under its certificate of registration; or

- (b) alter the nature or conduct of any of registered activities,  
in a manner that differs in a material way from that specified in its application for registration. 5
- (3) Within 30 days after receiving a notice in terms of subsection (2), the Authority must advise the registrant either that -
  - (a) the Authority will review the conditions of registration in light of the proposed changes; or 10
  - (b) the Authority accepts the proposed changes.
- (4) If the Authority reviews conditions of registration in terms of this section - 15
  - (a) section 24, read with the changes required by the context, applies to the review; and
  - (b) the Authority may determine new or alternative conditions- 20
    - (i) only in relation to the registrant's materially altered circumstances, in the case of a review contemplated in subsection (1)(a) or (b); or
    - (ii) to the extent permitted by section 25, having regard to the circumstances at the time of the review. 25

**Alteration or extension of registered premises**

- 34. (1) A registrant must not effect structural alteration, addition or reconstruction of or to the registered premises except with permission of the Authority on application made by the registered person, and the Authority is of the opinion that the proposed alteration, addition or reconstruction will be suitable for the purpose for which they are to be used. 30
- (2) The Authority must not grant the permission in terms of subsection (1) without the written consent of the municipality who approved the building plans for the proposed structural alteration, addition or reconstruction to the registered premises. 35

**Transfer of registration** 40

- 35. (1) The registration certificate may be transferred to another person if -
  - (a) the registrant, or the person to whom the registration is to be transferred, applies in the prescribed manner and form for approval of the transfer; 45

- (b) the person to whom the registration is to be transferred is not disqualified under section 23; and
  - (c) the Authority has considered the application and approved the transfer. 5
- (2) If an application in terms of subsection (1) proposes a transfer of registration, section 24, read with the changes required by the context, applies to that application.
- (3) If a registered person acquires control over another registered person that holds a different category of registration, the registered persons must notify the Authority in the prescribed manner and form. 10
- (4) If two or more registered persons establish a joint venture to hold a category of registration that is different from the category held by either of them, a new application for registration must be submitted in the name of the joint venture. 15

**Death, insolvency or incapacity of registered person**

36. (1) For the purposes of this section, the expression an “administrator” includes - 20
- (a) an executor of a deceased estate;
  - (b) a liquidator or trustee of an insolvent estate; and 25
  - (c) a curator.
- (2) If a registrant dies, becomes insolvent, is placed in liquidation or is placed under curatorship, the administrator of that registrant's estate may, for the purposes of the administration of the estate- 30
- (a) continue to conduct the registered activities in the name of the estate; or
  - (b) make a proposal to the Authority in terms of section 35 to transfer the registration to another qualified person. 35
- (3) Any person may apply in the prescribed manner and form to the Authority for the appointment of a person to conduct the registered activities of a registrant, pending the appointment of an administrator contemplated in subsection (1). 40
- (4) Before granting an application made in terms of subsection (3), the Authority must be satisfied that -
- (a) every person with a financial interest in the matter has been given reasonable notice of the application; 45

- (b) an administrator has not been appointed; and
- (c) there are reasonable grounds for believing that an administrator will be appointed.

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

**Removal of registration**

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- 37. (1) A registrant may apply to the Authority for the permanent removal of the registration from one premises to another in which case the application procedure for registration must be followed with regard to the new premises.

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- (2) A registrant may apply to the Authority for the temporary removal of the registration from one premises to another, provided that –

- (a) the proposed premises are situated within the same municipality;
- (b) the proposed premises is suitable for the purpose for which it is intended to be used, which include issues of public interest referred to in section 24(4); and

20

- (c) the application is in the prescribed manner and form in terms of this Act.

25

**Cancellation and lapsing of registration**

- 38. (1) A registration may be cancelled -

30

- (a) by the Authority, in terms of subsection (2);
- (b) voluntarily by the registrant, in terms of section 39; or
- (c) as a consequence of liquidation, winding-up or dissolution, in terms of section 40.

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- (2) The Authority may cancel a registration if the registrant -

- (a) becomes disqualified on any of the grounds set out in section 23;
- (b) does not comply with a condition of registration; or
- (c) does not comply with the provisions of this Act.

40



- (3) Prior to taking any decision to cancel registration, the Authority must follow a procedurally fair process as contemplated in the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- (4) If the Authority has cancelled a registration, the Authority must notify the former registrant in writing of - 5
  - (a) the cancellation;
  - (b) the reasons for the cancellation; 10
  - (c) the date of cancellation; and
  - (d) the right of review as contemplated in the Promotion of Administrative Justice Act, 2000. 15
- (5) If a registration is cancelled in terms of this section, the Authority must -
  - (a) cancel the registration certificate; and 20
  - (b) amend the register accordingly.
- (6) A registration is cancelled as of the date on which the Authority notifies the former registrant of the cancellation, which, in the case of a cancellation in terms of section 39, must be on the date specified by the registrant in the notice of voluntary cancellation. 25
- (7) Registration lapses after the expiry of five (5) years from date of issuing of registration by the Authority. 30
- (8) A registrant may apply again for registration in the prescribed manner and form prior to lapsing of registration referred to in subsection (7).

**Voluntary cancellation**

**39.** A registrant may cancel the registration by giving the Authority written notice in the prescribed manner and form - 35

- (a) stating the person's intention to voluntarily cancel the registration and reasons for doing so; and 40
- (b) specifying a date, at least seven days after the date of the notice, on which the cancellation is to take effect.

**Cancellation as consequence of liquidation, sequestration, winding-up or death**

40. (1) If a registrant is wound up or sequestrated without having transferred the registration in terms of section 35, the liquidator or trustee must notify the Authority in the prescribed manner and form within six (6) months after the sequestration or winding-up, or such longer time as the Authority, on written request, may allow. 5
- (2) If a registrant dies, the executor of his or her estate must notify the Authority in the prescribed manner and form within three (3) months after the death, or such longer time as the Authority, on written request, may allow. 10
- (3) Upon receiving a notice in terms of subsection (1) and (2), the Authority must cancel the registration concerned. 15

**Provincial record of registrations**

41. (1) The Authority must establish and maintain a register of all persons who have been registered under this Act, including those whose registration has been transferred, altered or cancelled. 20
- (2) The Authority must -
- (a) permit any person to inspect the register established in terms of subsection (1), during normal business hours; 25
  - (b) publish the register on a website; and
  - (c) provide a print copy of the register, or extract from it at any time to a person requesting it, upon payment of the prescribed fee. 30
- (3) Any person may -
- (a) inspect a copy of a registration certificate issued in terms of this Act; and 35
  - (b) obtain a copy of it, upon payment of the prescribed fee.

**CHAPTER 6  
ON-CONSUMPTION AND OFF-CONSUMPTION REGISTRATION**

40

**Kinds of registration certificates**

42. (1) The following registration certificates may be issued by the Authority for the sale and supply of liquor or methylated spirits –

- (a) For consumption on the registered premises concerned, namely -
  - (i) Accommodation establishment registration certificate;
  - (ii) Restaurant registration certificate;
  - (iii) Club registration certificate; 5
  - (iv) Tavern registration certificate;
  - (v) Pub registration certificate;
  - (vi) Pool club registration certificate;
  - (vii) Sorghum beer registration certificate;
  - (viii) Special events registration certificate; 10
  - (ix) Gaming registration certificate; or
  - (x) Night club registration certificate.
  
- (b) For consumption off the registered premises concerned, namely - 15
  - (i) Liquor store registration certificate;
  - (ii) Grocer's wine registration certificate;
  - (iii) Micro-manufacturer of liquor registration certificate;
  - (iv) Sorghum beer registration certificate;
  - (v) Sale of methylated spirits registration certificate; 20
  - (vi) Micro-manufacturer of methylated spirits registration certificate; or
  - (vii) Special events registration certificate.
  
- (2) If a need arises, the MEC may prescribe further categories for consumption on and off the premises. 25
  
- (3) Regulations contemplated in subsection (2) must be tabled within 30 days after publication thereof in the provincial legislature, or if the provincial legislature is not in session, within 30 days after the next session starts. 30
  
- (4) If the provincial legislature rejects the regulations, the MEC must repeal them.

**Place for sale of liquor or methylated spirits**

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43. A registered person must not sell liquor or methylated spirits at any place other than the registered premises except with the permission of the Authority which permission may be given only for the purposes of special events.

**Times of business**

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44. The holder of a registration certificate may sell liquor on any day during the prescribed times and must close his or her business not more than 30 minutes after prescribed time for selling of liquor.

**Place for on-consumption of liquor**

45. A holder of an on-consumption registration certificate must ensure that liquor sold thereunder be consumed on the registered premises only. 5

**Accommodation establishment**

46. (1) The holder of an accommodation establishment registration certificate must at all times maintain on the registered premises a *bona fide* accommodation establishment. 10
- (2) A record of all guests must be kept on the registered premises at all times.
- (3) The holder of an accommodation establishment registration certificate must sell liquor on the registered premises to a guest for consumption by the guest in the accommodation establishment. 15

**Restaurant**

47. (1) The holder of a restaurant registration certificate must at all times maintain on the registered premises a *bona fide* restaurant at which meals are regularly supplied to guests. 20
- (2) The holder of the restaurant registration certificate must only sell liquor to a person taking a meal purchased on the registered premises. 25

**Club**

48. (1) A club registration must not be granted except to a club in respect of which the Authority is satisfied that it is a *bona fide* club and that, according the constitution or the rules thereof - 30
- (a) consists of at least fifteen ordinary members;
- (b) its management is elected by its members and the management regularly holds meetings of which proper minutes are kept; 35
- (c) only its members are permitted to pay for facilities, liquor or refreshments supplied on the premises of the club; 40
- (d) in so far as the use of its facilities by guests, excluding family members of its members, is permitted by its rules, the number of guests of any member may not on any occasion exceed the number so permitted;
- (e) proper records, including a register of members, are kept; 45
- (f) members pay annual subscription fee;

- (g) no profit from the sale of liquor by the club accrues to any individual; and
- (h) membership is not discriminating based on race.

- (2) The holder of a club registration certificate must at all times maintain on the registered premises a *bona fide* club in respect of which the requirements of this Act are being complied with. 5

**Tavern**

- 49. (1) The holder of a tavern registration certificate must at all times ensure that the registered premises are separated from any other dwelling by means of solid walls. 10
- (2) The registrant may provide various other forms of light musical entertainment not exceeding decibels as regulated by applicable municipal bylaws on the registered premises. 15

**Liquor pub**

- 50. The holder of a Liquor pub registration certificate must at all times maintain on the registered premises facilities, which may include provision of light meals, dancing and entertainment. 20

**Pool club**

- 51. The holder of a pool club registration must maintain on the premises a *bona fide* pool club. 25

**Sorghum beer on-consumption**

- 52. The holder of a sorghum beer registration certificate must sell only sorghum beer for consumption on the registered premises. 30

**Special events**

- 53. (1) Only registrants may apply for special events registration. 35
- (2) The holder of a special events on-consumption registration certificate must ensure that the liquor provided at the event is for the consumption on the premises in respect of which a registration certificate has been granted. 40
- (3) Registrants must apply for special events registration certificates in the prescribed manner and form in terms of this Act.

## **Gaming**

54. (1) The holder of a gaming registration certificate must supply liquor for consumption on the registered premises. 5
- (2) The holder of a gaming registration certificate must conduct a lawful gaming business on the registered premises.

## **Night club**

55. The holder of a night club registration certificate must at all times maintain on the registered premises, facilities which may include dancing and live entertainment. 10

## **Off-consumption of liquor or methylated spirits**

56. (1) The holder of every off-consumption registration certificate must ensure that no liquor or methylated spirits is consumed on the registered premises. 15
- (2) The holder of a liquor store registration certificate must not under any circumstances distribute any liquor or methylated spirits in terms of this Act. 20
- (3) The holder of micro-manufacturer registration certificate must ensure that no liquor or methylated spirits is consumed on the registered premises.

## **Micro-manufacturer**

57. (1) A micro-manufacturing registration certificate must only be to a person who engages in the manufacturing of liquor or methylated spirits. 25
- (2) The holder of a micro-manufacturing must only supply to a micro-manufacturer, retail seller registered in terms of this Act, or to a manufacturer or distributor registered in terms of the National Liquor Act. 30
- (3) The provisions of the National Liquor Act that relate to micro-manufacturers apply *mutatis mutandis* to micro-manufacturers registered in terms of this Act. 35

## **Liquor store**

58. (1) Subject to subsection (2), the holder of a liquor store registration certificate may sell liquor to any person who is not a minor. 40
- (2) The holder of the liquor store registration certificate must ensure liquor is sold in receptacles which are properly and securely sealed.

**Grocer's wine**

59. (1) The holder of a grocer's wine registration certificate must at all times carry on business of grocer on the registered premises. 5
- (2) The holder of a grocer's wine registration certificate must not sell liquor other than wine.
- (3) The holder of a grocer's wine registration certificate must not sell liquor in a receptacle which has a capacity of more than five litres and which is not properly and securely sealed. 10

**Sorghum off-consumption**

60. The holder of a sorghum beer registration certificate for consumption off the registered premises must not sell sorghum beer in a receptacle which has capacity of more than five litres, which is not properly and securely sealed. 15

**CHAPTER 7  
COMPLIANCE**

20

**Designation of police officers**

61. (1) The Provincial Commissioner of the South African Police Service may designate any police official of the rank or above the rank of a Sergeant as a designated police officer. 25
- (2) The designated police officer must compile the reports envisaged in this Act.
- (3) In order to perform the functions in subsection (2), the designated police officer may enter any relevant premises in accordance with provisions of this Act. 30
- (4) A designated police officer may –
- (a) during the times when a person is authorised in terms of this Act to sell or supply liquor or methylated spirits, enter and inspect any part of the premises concerned or any place where liquor is stored by virtue of a determination under this Act; 35
- (b) at any time enter and search any premises, place or vehicle, or search any person or object, whether found on those premises or in that place or vehicle or not, if – 40

- (i) there are reasonable grounds to suspect that an offence in terms of this Act is being committed on those premises or in that place or vehicle, or is being committed by that person or by means of that vehicle or object, or that it is being used in connection with the commission of such an offence; or 5
- (ii) there are reasonable grounds to suspect that -
  - (aa) that person has in his or her possession liquor or methylated spirits, vehicle or object; 10
  - (bb) liquor or methylated spirits, vehicle or object kept on those premises or in that place;
  - (cc) liquor or methylated spirits kept in that vehicle or object; 15
  - (dd) a object kept in that vehicle; or
  - (ee) a object kept in any receptacle, 20is in contravention of this Act or in connection with such a contravention;
- (c) enter premises or place in which liquor or methylated spirits is being sold and demand that the registration certificate authorising such sale be produced to him or her; 25
- (d) at any time inspect a record or other document required to be kept by virtue of this Act. 30

**Designation of inspectors**

62. (1) The Authority -
- (a) may designate an employee of the department as an inspector, with either general or specific authority to exercise powers in terms of this Act; and 35
  - (b) must issue to each inspector a certificate in the prescribed form stating that that person has been designated as an inspector. 40
- (2) A valid certificate issued in terms of subsection (1)(b) is sufficient evidence of the authority of the inspector named on it.
- (3) The Authority may request the Minister of Justice to appoint inspectors as peace officers as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), in order to exercise the powers conferred on a peace officer by law. 45



## Functions and powers of inspectors

63. (1) An inspector may -
- (a) investigate complaints submitted to him or her in the prescribed manner and form; and 5
  - (b) subject to this Act or another law that authorises the inspector to conduct an inspection - 10
    - (i) monitor and enforce compliance with this Act or that law; or
    - (ii) conduct an inspection under this Act or that law.
- (2) Subject to section 70 and subsections (4) to (6), an inspector may - 15
- (a) question a person whom the inspector reasonably believes may have information relevant to an inspection;
  - (b) question a person present on premises being inspected, in respect of any matter which the inspector reasonably believes may be relevant to the inspection; 20
  - (c) inspect a document that - 25
    - (i) a person is required to maintain in terms of this Act or another relevant law; or
    - (ii) the inspector reasonably believes may be relevant to a liquor-related inspection; 30
  - (d) copy a document referred to in paragraph (c), or if necessary, remove the document in order to copy it;
  - (e) take samples of a substance that the inspector reasonably believes is relevant to the inspection; 35
  - (f) for the purpose of the inspection, take photos or make audio-visual recordings of anything or a person, process, action or condition implicated in the inspection on or regarding any premises; and 40
  - (g) do all things reasonably necessary for conducting the inspection.
- (3) An inspector may be accompanied during an inspection by a member of the South African Police Service to ensure the safety of the inspector and also by another person reasonably required to assist in conducting the inspection. 45

- (4) Before commencing an inspection on 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; 5
  - (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. 10
- (5) Before questioning a person in terms of this Chapter, an inspector must inform that person of his or her applicable constitutional rights.
- (6) 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 – 15
  - (a) the administration or taking of an oath or affirmation; 20
  - (b) the making of false statements; or
  - (c) the failure to answer a lawful question fully and satisfactorily.

**Duty to produce documents, answer questions and assist inspector 25**

- 64. (1) A 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 registered premises must provide access to premises and assistance that is reasonably required by an inspector to conduct an inspection effectively. 30
- (3) A person who is questioned by an inspector in terms of this Chapter must answer every question truthfully and to the best of his or her ability. 35

**Compliance notices**

- 65. (1) If an inspector reasonably believes that a provision of this Act or a condition of registration has not been complied with, the inspector may issue a compliance notice in the prescribed form to - 40
  - (a) the registrant; or
  - (b) the owner of the registered premises or a person in control of the registered premises. 45

- (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; 5
  - (c) any steps that are required to be taken and the period within which those steps must be taken; and
  - (d) any penalty that may be imposed in terms of this Act if those steps are not taken. 10
- (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. 15
- (4) If the requirements of a compliance notice have been satisfied, the inspector must issue a compliance certificate.

**Objection to compliance notice** 20

- 66.** (1) A person issued with a compliance notice may object to it by making representations to the Authority within -
- (a) 21 days of receipt of that notice; or 25
  - (b) such longer period as may be allowed by the Authority on good cause shown.
- (2) After considering any representations by the objector and another relevant information, the Authority may confirm, modify or cancel a compliance notice or any part of such notice. 30
  - (3) The Authority must serve a copy of the notice made in terms of subsection (2) on the objector and, if the objector is not a person registered in terms of this Act, a registered person affected by the notice. 35
  - (4) If the Authority confirms or modifies the notice or a part of the notice, the objector must comply with that notice, within the time period specified in that notice. 40

### Interim orders

67. (1) The Authority may, in exceptional circumstances, and upon application by an inspector or a police officer, and where there is an imminent threat to the health, well being or safety of the public, grant an interim order suspending registration. 5
- (2) An application in terms of subsection (1) may not be granted unless –
- (a) it is supported by affidavit setting out the facts pertaining to the matter; 10
  - (b) proof is submitted that the application and supporting affidavits have been served upon the registrant not less than forty-eight (48) hours prior to the lodgement of the application; and
  - (c) it appears from the application that the matter is one of urgency. 15
- (3) An order granted in terms of subsection (1) must be served upon the registrant as directed by the Authority and comes into effect upon the date and at the time of service thereof. 20
- (4) An order granted in terms of subsection (1) must stipulate a date upon which the registrant must appear before the Authority to show cause why the order should not be made final.
- (5) The registrant may, prior to the date stipulated in subsection (4), lodge with the Authority a notice of opposition and must thereafter lodge affidavits in which he or she sets out the grounds upon which the application is opposed and must simultaneously serve a copy of such notice and affidavits on the inspector or a police officer referred to in subsection (1). 25
- (6) A registrant may at any time prior to the date stipulated in terms of subsection (4) apply to the chairperson to set the matter down for hearing upon an earlier date, and must simultaneously serve a copy of such application on the inspector or designated police officer referred to in subsection (1). 30
- (7) The chairperson may order the return date to be brought forward to an earlier date. 35
- (8) Upon the date of the hearing of the application the Authority may discharge the interim order or confirm it, subject to such amendments as it deems fit. 40

### Review of decision of the Authority

68. Decisions of the Authority in terms of this Act are subject to review to the extent provided for, and in accordance with, the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). 5

### Entry with a warrant

69. (1) An inspector may enter land or premises if a magistrate has issued a warrant to enter or inspect such land or premises. 10
- (2) A magistrate may issue a warrant to enter and inspect any land or premises if, from information in writing under oath, the magistrate has reason to believe that –
- (a) it is necessary to obtain information, in the interest of the public, that cannot reasonably be obtained without entering the land or those premises; or 15
- (b) there is non-compliance with this Act. 20
- (3) A warrant in terms of subsection (2) may be issued at any time and must be in terms of and subject to the provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). 25
- (4) A warrant issued in terms of subsection (2) is valid until –
- (a) it is executed; 30
- (b) it is cancelled by the magistrate who issued it or, in the magistrate's absence, by any other judicial officer; 35
- (c) the purpose for which it was issued has lapsed; or
- (d) 90 days have lapsed since the date of its issue. 40
- (5) Before commencing any inspection, search or seizure, an inspector who carries out a warrant must –
- (a) if the owner of or a person in control of the land or premises is present – 45
- (i) identify himself or herself, indicate his or her designation or furnish proof thereof;
- (ii) hand a copy of the warrant to that person or any person named in it; or

- (b) if the owner or person in control of the land or premises is absent or refuses to accept a copy, attach a copy of the warrant to the land or premises in a prominent and visible place.

**Entry without a warrant** 5

- 70.** (1) An inspector who does not have a warrant in his or her possession may enter and inspect –
- (a) registered premises; 10
  - (b) land or premises if authorised to do so by another law; or
  - (c) with the consent of the owner or person in control of land or premises. 15
- (2) An inspector must identify himself or herself and explain his or her authority and furnish proof of his or her designation to the person in control of the premises.
- (3) An inspection without a warrant must be carried out only during prescribed normal business hours. 20

**CHAPTER 8  
OFFENCES, PENALTIES AND COMPLAINTS**

**Offences** 25

- 71.** (1) It is an offence to -
- (a) contravene or fail to comply with the provisions of this Act; or 30
  - (b) fail to comply with a condition of registration imposed under this Act.
- (2) A person must not -
- (a) refuse to grant an inspector access to premises to which the inspector is authorised to have access; 35
  - (b) obstruct, interfere or hinder an inspector who is exercising a power or performing a duty in terms of this Act; 40
  - (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 premises, or a person working for that owner, from entering the premises in order to comply with a requirement of this Act;
  - (f) pretend to be - 5
    - (i) a registrant; or
    - (ii) an inspector; 10
  - (g) falsify, or without authorisation, alter -
    - (i) a registration certificate issued in terms of this Act; or
    - (ii) an authorisation of a warrant, compliance notice or compliance certificate contemplated in Chapter 7; 15
  - (h) fail to comply with a compliance notice issued in terms of Chapter 7;
  - (i) enter premises without a warrant in circumstances requiring a warrant; 20
  - (j) act contrary to a warrant issued in terms of Chapter 7;
  - (k) without authority enter or inspect premises; or 25
  - (l) 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; 30
    - (ii) if the disclosure is ordered by a competent court; or
    - (iii) if the disclosure is in compliance with the provisions of any law. 35
- (3) A person who -
- (a) is drunk in or on - 40
    - (i) premises on which liquor or methylated spirits is sold; or
    - (ii) a place to which the public has access;

- (b) sells or supplies liquor or methylated spirits to a drunk person or being a registrant or a person in charge of the premises allows a drunk person to remain upon the registered premises;
- (c) purchases liquor or methylated spirits from any person knowing, or having reasonable grounds to suspect, that such person is not registered or permitted to sell liquor or methylated spirits in terms of this Act or in terms of the National Liquor Act; 5
- (d) subject to subsection (4), consumes any liquor or methylated spirits in any road, street, lane or thoroughfare, or on vacant land adjacent thereto, in an urban area or other area subdivided into erven or plots with streets bounded by such erven or plots; 10
- (e) consumes or possesses liquor or methylated spirits on private premises without the consent of the owner or lawful occupier of those premises first having been obtained; 15
- (f) introduces, possesses or consumes any liquor or methylated spirits on a sportsground, or a part thereof, to which the public has or is granted access (irrespective of whether access is granted against payment), except on registered premises situated on the sportsground concerned, 20  
is guilty of an offence.
- (4) A person who is in charge of the registered premises must not allow a person who has a weapon in his or her possession to enter the premises. 25
- (5) Subsection (3)(d) shall not apply to liquor with regard to –
  - (a) the consumption of liquor on vacant land contemplated in that subsection if the liquor has been sold on that land under an on-consumption licence; 30
  - (b) a social occasion held on that land by a person who owns or lawfully occupies the land; or 35
  - (c) the use of that land by that person in the ordinary course of his or her occupation thereof.
- (6) In the application of subsection (3)(e), a person occupying the premises concerned as an employee of the owner or lawful occupier of the land on which those premises are situated, shall be deemed not to be the lawful occupier of the premises. 40



## Penalties

72. (1) A person who is found guilty of an offence in terms of this Act shall be liable on conviction to a fine or imprisonment not exceeding five (5) years, or to both a fine and such imprisonment. 5
- (2) Upon conviction or payment of a fine or admission of guilt under this Act, any proceeds of an offence, including liquor or methylated spirits seized, may be forfeited in terms of the provisions of the Organised Crime Act, 1998 (Act No. 121 of 1998). 10

## Imputation of criminal liability

73. (1) If a manager, agent or employee of a person commits an offence by performing or omitting to perform an act and such performance or omission would have constituted an offence had it been done by the registrant, that person is equally guilty of the offence if the act or omission fell within the scope of the authority or employment of the manager, agent or employee concerned and the person - 15
- (a) either connived at or permitted the act or omission by the manager, agent or employee concerned; or 20
- (b) did not take all reasonable steps to prevent the act or omission.
- (2) For purposes of subsection (1), the fact that a 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. 25

## Complaints

74. (1) A person aggrieved by the activities at a registered premises may lodge a complaint in writing to the Authority in a prescribed manner. 30
- (2) An aggrieved person who could convince the MEC that he or she does not have the necessary financial means to approach the High Court as contemplated in section 68 to review a decision of the Authority taken in subsection (1), may appeal to the MEC within 30 days of being notified of the decision of the Authority in the prescribed manner. 35
- (3) The MEC may confirm, amend or set aside the decision of the Authority contemplated in subsection (2). 40
- (4) A decision of the MEC in terms of this section is subject to review to the extent provided for, and in accordance with, the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). 45

**Removal from premises**

75. (1) A registrant, his or her agent or employee may remove from the registered premises any person who is drunk, violent or disorderly or whose presence on the registered premises may subject the registrant to prosecution. 5
- (2) A registrant, his or her agent or employee may request a police officer to remove or assist in removing a person referred to in subsection (1).

**CHAPTER 9 10**  
**REGULATIONS**

**Power to issue regulations**

76. The MEC may make regulations - 15
- (a) required or permitted in terms of this Act; or
- (b) necessary or expedient to prescribe in order to achieve the objectives of this Act. 20

**Procedure when issuing regulations**

77. (1) Before promulgating a regulation, the MEC must -
- (a) take appropriate steps to notify any persons who are likely to be materially or adversely affected by the regulation or notice and invite comment from them; 25
- (b) publish the regulation or notice in the *Provincial Gazette* and invite comment from the public; and 30
- (c) consider any comment received and any recommendations made by the Authority.
- (2) A decision of the MEC in terms of this Chapter is subject to review to the extent provided for, and in accordance with, the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). 35

**CHAPTER 10  
GENERAL PROVISIONS**

**Limitation of liability**

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78. 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.

**Validity of registration subject to suspension and lapsing thereof**

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79. (1) A registration which has been suspended in terms of a provision of this Act remains valid in all respects, except that the registrant may not sell liquor or methylated spirits in terms thereof during the period of suspension.

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(2) The registrant whose registration has been suspended, cancelled or has lapsed in terms of provisions of this Act, may within 30 days of such suspension, cancellation or lapsing, sell by public auction conducted by a licenced auctioneer any liquor or methylated spirits which was upon the registered premises on the date upon which the suspension, cancellation or lapsing came into effect.

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(3) A registration which has lapsed is null and void from the date upon which it lapses.

**Delegation of power**

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80. (1) The MEC may delegate all or part of a power of the MEC in terms of this Act, other than the power to make regulations, to the Head of Department or an officer of the department designated by the Head of Department.

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(2) At any time, the MEC may revoke a delegation of power under this section, and exercise that power directly.

(3) The chief executive officer may delegate a power of the chief executive officer in terms of this Act to a member of staff of the Authority.

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(4) The Authority may, subject to such conditions as it may determine, in writing, delegate a power or function conferred or imposed upon it under this Act, to -

(a) the chief executive officer;

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(b) the chairperson;

- (c) a committee of members; or
  - (d) a committee of members and staff.
- (5) A delegation under subsection (4) does not prevent the Authority itself from exercising the power or performing the function. 5

**Transitional arrangements**

81. (1) A licence together with its conditions in force immediately before commencement of this Act which were given in terms of the Liquor Act, 1989 (Act No. 27 of 1989) or a approval or licence issued in terms of subsection (3) is regarded to be a registration given in terms of this Act. 10
- (2) A notice issued in terms of section 33 of the Liquor Act, 1989, and in force immediately prior to the commencement of this Act must be deemed to be conditions set out in writing in terms of this Act. 15
- (3) Notwithstanding the repeal of a law as a consequence of the commencement of this Act, an application made prior to such commencement must be considered and disposed of in accordance with the provisions of the law in terms of which it was lodged. 20
- (4) A licence contemplated in subsection (1), unless otherwise determined by the Authority upon application in the prescribed manner, lapses three (3) years from date of commencement of this Act. 25
- (5) A consent, approval or privilege granted to a licensee in terms of the National Liquor Act or any Act repealed thereby, which is not inconsistent with the provisions of this Act, is deemed to be a consent, approval or privilege granted in terms of this Act. 30
- (6) A person designated as police officer or inspector in terms of the provisions of the Liquor Act, 1989, is regarded to be designated as such in terms of this Act. 35

**Short title and commencement**

82. This Act is called the Free State Liquor Act, 2007, and comes into operation on a date to be determined by the Premier by proclamation in the *Provincial Gazette*.