



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 466

Cape Town,
Kaapstad,

26 April 2004

No. 26294

THE PRESIDENCY

No. 539

26 April 2004

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 59 of 2003: Liquor Act, 2003.

IHHOVISI LIKAMONGAMELI

Ino. 539

26 April 2004

Ngalokhu kwaziswa ukuthi uMongameli usewuvumile loMthetho nosewuzoshicilelelwa umphakathi:—

Ino. 59 ka-2003: uMthetho woTshwala, ka-2003.



AIDS HELPLINE: 0800-0123-22 Prevention is the cure



*(English text signed by the President.)
(Assented to 20 April 2004.)*

ACT

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 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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*(English text signed by the President.)
(Assented to 20 April 2004.)*

UMTHETHO

Ukusungula izinkambiso namazinga ukuze kugcinwe ukubumbana komnotho embonini yotshwala; ukuhlinzekela amazinga kazwelonke asemqoka kanye namazinga amancane ekudingeka agcinwe ukuze kuhlinzekwe izinsizakalo; ukuhlinzekela izinyathelo zokukhuthaza ukubambisana ekwengameleni indawo yomthetho wotshwala; kanye nokuhlinzekela ezinye izindaba ezihambisana nalokhu.

Makumiswe uMthetho yiPhalamende leRiphabhliki yaseNingizimu Afrika, kanje:—

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UKUCHITHWA KWEMITHETHO

CHAPTER 1

DEFINITIONS, INTERPRETATION, OBJECTS AND APPLICATION OF ACT

Definitions and interpretation

1. (1) In this Act, unless the context indicates otherwise—
- “**applicable provincial legislation**” means legislation enacted by a provincial legislature regulating the micro-manufacture, retail sale or consumption of liquor; 5
- “**applicant**” means a person who has applied to be registered in terms of this Act;
- “**beer**” includes—
- (a) ale, cider and stout; and
 - (b) any other fermented drink, other than traditional African beer— 10
 - (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);
- “**bottle**” means to place and seal a substance in the container in which it will be offered for retail sale; 15
- “**Competition Commission**” means the body established by section 19 of the Competition Act, 1998 (Act No. 89 of 1998);
- “**control**” has the meaning determined in accordance with the Competition Act, 1998 (Act No. 89 of 1998);
- “**Council**” means the National Liquor Policy Council established by section 37; 20
- “**department**” means the department responsible for liquor matters in the national sphere of government;
- “**distribute**” means to offer liquor or methylated spirits for sale, or sell it, to a registered person;
- “**distributor**” means a person registered as such in terms of this Act; 25
- “**Director-General**” means the Director-General of the department responsible for liquor matters in the national sphere of government;
- “**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;
- “**impotable substance**” means any substance that is unsafe for human consumption; 30
- “**inspector**” means a person designated as such in terms of section 25 (1);
- “**liquor**” means—
- (a) a liquor product, as defined in section 1 of the Liquor Products Act, 1989 (Act No. 60 of 1989); 35
 - (b) beer or traditional African beer; or
 - (c) any other substance or drink declared to be liquor under section 42(2)(a);
- “**manufacture**” means to produce or bottle liquor or methylated spirits for the purpose or with the intent of selling it;
- “**manufacturer**” means a person registered as such in terms of this Act; 40
- “**Member of the Executive Council**” means, in respect of each province, that person appointed in terms of section 132 of the Constitution to whom the responsibility for liquor licensing has been assigned;
- “**methylated spirits**” means—
- (a) a spirits denatured in accordance with any law on the denaturation or methylation of spirits; 45
 - (b) any other denatured spirits, including—
 - (i) a medicated spirits; or

ISIAHLUKO 1

IZINCAZELO, UKUHUNYUSHWA, IZINJONGO KANYE
NOKUSETSHENZISWA KOMTHETHO

Izincazelo kanye nokuhunyushwa

1. (1) Kulo Mthetho, ngaphandle uma indikimba isho okunye— 5
- “**umthetho wesifundazwe osebenzayo**” kusho umthetho omiswe yisishayamthetho sesifundazwe olawula ukukhiqiza kancane, ukuthengisa noma ukuphuza utshwala;
- “**ofake isicelo**” kusho umuntu ofake isicelo sokubhaliswa ngokwalo Mthetho;
- “**ubhiya**” kufaka— 10
- (a) i-eyili, isayida kanye nestawoti; kanye
- (b) nanoma yisiphi esinye isiphuzo esivutshelwe, ngaphandle kotshwala besiNtu—
- (i) esikhiqizwa, noma esithengiswa ngaphansi kwegama, likabhiya, i-eyili, isayida noma istawoti, uma siqukethe okudakayo okungaphezu 15 kwephesenti elilodwa; noma
- (ii) esimenyezelwe ngokuthi singubhiya ngaphansi kwesigaba 42(2)(a);
- “**ukufaka ebhodleleni**” kusho ukufaka bese uvalela utho esitsheni oluzothengiswa ngaso;
- “**ikhomishana yokuncintisana**” kusho umgwamanda osungulwe yisigaba 19 20 soMthetho wokuNcintisana, ka-1998 (uMthetho No. 89 ka-1998) (*Competition Act*);
- “**ukuqapha**” kunencazelo emiswe ngokoMthetho wokuNcintisana, ka-1998 (uMthetho No. 89 ka-1998);
- “**uMkhandlu**” kusho uMkhandlu woMgomo woTshwala kaZwelonke osungulwe 25 yisigaba 37;
- “**umnyango**” kusho umnyango obhekene nezindaba zotshwala emkhakheni kahulumeni kazwelonke;
- “**ukuze kudayiswe**” kusho ukuhlinzeka utshwala noma isipilithi esingakulungele ukuphuzwa, noma ukubuthengisela umuntu obhalisiwe; 30
- “**umphaki**” kusho umuntu obhaliselwe lokho ngokwalo Mthetho;
- “**uMqondisi-Jikelele**” kusho uMqondisi-Jikelele womnyango obhekene nezindaba zotshwala emkhakheni kahulumeni kazwelonke;
- “**unyaka wezimali**” kusho unyaka ngokwekhalenda oqala osukwini lokuqala ku-Ephreli kunoma yimuphi unyaka bese uphela ngosuku lokugcina kuMashi 35 wonyaka olandelayo;
- “**into eyingozi kubantu**” kusho noma yini engaphephile ukuthi idliwe noma iphuzwe ngabantu;
- “**umhloli**” kusho umuntu okhethelwe lokho ngokwesigaba 25(1);
- “**utshwala**” kusho— 40
- (a) umkhiqizo wotshwala, njengalokho kuchazwe kwisigaba 1 soMthetho wemiKhiqizo yoTshwala, ka-1989 (uMthetho No. 60 ka-1989) (*Liquor Products Act*);
- (b) ubhiya noma utshwala besiNtu; noma
- (c) noma yini enye noma isiphuzo esichazwe ngokuthi siwutshwala ngaphansi 45 kwesigaba 42(2)(a);
- “**ukukhiqiza**” kusho ukwenza noma ukufaka utshwala noma isipilithi esingakulungele ukuphuzwa emabhodleleni ngenhloso yokuthengisa;
- “**umkhiqizi**” kusho umuntu obhaliswe ukwenza lokho ngokwalo Mthetho;
- “**iLungu loMkhandlu Omkhulu**” kusho, maqondana nesifundazwe ngasinye, 50 lowo muntu oqokwe ngokwesigaba 132 soMthethosisekelo owethweswe umthwalo wokukhipha amalayisense otshwala, phecelezi u-MEC;
- “**isipilithi esingakulungele ukuphuzwa**” kusho—
- (a) isipilithi esifakwe okuthize okungafanele ukuphuzwa ngabantu ngokuhambisana nanoma yimuphi umthetho ongokuguqula isimo semvelo 55 sento ngokufaka okuthize noma ukufaka imethanol otshwaleni bungabe busafaneleka ukuphuzwa;
- (b) noma yisiphi esinye isipilithi esingakulungele ukuphuzwa kufaka—
- (i) izipilithi ezithakwe nokuyimithi; noma

(ii) a denatured spirits declared to be a methylated spirits in terms of this Act;

“micro-manufacturer” means a person registered as such in terms of applicable provincial legislation to manufacture liquor at or below the prescribed threshold volume;

“Minister” means—

(a) the member of Cabinet responsible for liquor matters in the national sphere of government; or

(b) a person acting on or in terms of a delegation made under section 45;

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

“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;

“prescribe” means prescribe by regulation in terms of this Act;

“prescribed threshold volume” means the volume determined by the Minister in terms of section 4(10);

“private collection” means liquor held by a person if that person acquired that liquor for private consumption and without the intention of re-selling it, whether by—

(a) producing it;

(b) purchasing it from a retail seller;

(c) acquiring it from another private collection; or

(d) importing it into the Republic;

“register”, when used as a noun, means the register referred to in section 23;

“registered person” means—

(a) a manufacturer, distributor, 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);

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

“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 for the purpose of consumption;

“retail seller” means a person who is registered or licensed in terms of applicable provincial legislation to sell liquor, or make liquor available for sale, for the purpose of consumption;

“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;

“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;

“traditional African beer powder”—

(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;

“this Act” includes any schedule, and any regulation or notice made under this Act.

(2) For all purposes of this Act, the question whether, at the time of producing, bottling, importing or acquiring any liquor, a person did so for the purpose or with the

- (ii) izipilithi eziwushevu ezichazwe kwathiwa yizipilithi ezingakulungele ukuphuzwa ngokwalo Mthetho;
- “umkhiqizi omncane”** kusho umuntu obhaliselwe ukwenza lokho ngokomthetho wesifundazwe ofanele ukuthi akhiqize utshwala kulingane noma kube ngaphansi kwevolumu emisiwe; 5
- “uNgqongqoshe”** kusho—
- (a) ilungu leKhabhinethi elibhekene nezindaba zotshwala ezingeni likahulumeni kazwelonke; noma
- (b) umuntu oyibamba ngokuhambisana nokudluliswa kwamandla okwenziwe ngaphansi kwesigaba 45; 10
- “ingane”** kusho umuntu ongakafinyeleli eminyakeni yobudala eyi-18;
- “umuntu”** kufaka ithrasti, kanye nanoma isiphi esinye isakhiwo esibalulwe kwincazelo yegama elithi “umuntu” emiswe kuMthetho wokuHumusha, ka-1957 (uMthetho No. 33 ka-1957);
- “amagceke”** kusho noma iyiphi indawo, umhlaba, ibhilidi noma okokuthwala, noma iyiphi ingxenye yako; 15
- “ukumisa”** kusho okumiswe yimithethonqubo ngokwalo Mthetho;
- “ivolumu emisiwe”** kusho ivolumu enqunywe nguNgqongqoshe ngokwesigaba 4(10);
- “iqoqo lomuntu”** kusho utshwala umuntu anabo uma lowo muntu wathola lobo tshwala ukuze aziphuzele bona futhi engenanhloso yokuphinda abuthengise, noma ngabe— 20
- (a) uzenzele bona;
- (b) ubuthenge kumthengisi wabo;
- (c) ubuthole kwelinye iqoqo lomuntu; noma 25
- (d) ubuthole kwelinye izwe wabuletha kwiRiphabhliki;
- “ukubhalisa”**, uma kusetshenziswe njengebizo, kusho ukubhalisa okukhulunywa ngako esigabeni 23;
- “umuntu obhalisiwe”** kusho—
- (a) umkhiqizi, umphaki, umkhiqizi omncane noma umthengisi; noma 30
- (b) umuntu osebenzisa amandla okuba ngumsebenzi noma i-eyjenti yomuntu obalulwe kwindima (a);
- “amagceke abhalisiwe”** kusho amagceke abhalisiwe ngokwalo Mthetho;
- “obhalisiwe”** kusho umuntu osebhalisiwe ngokwalo Mthetho;
- “umthethonqubo”** kusho umthethonqubo owenziwe ngaphansi kwalo Mthetho; 35
- “ukuthengisela umphakathi”** kusho ukuthengisa utshwala ngenhloso yokuthi buphuzwe;
- “umthengisi”** kusho umuntu obhalisiwe noma onelayisense ngokuhambisana nomthetho wesifundazwe ofanele, yokuthi athengise utshwala noma agcine utshwala obuthengisayo, ukuze buphuzwe; 40
- “ukuthengisa”** kufaka ukushintshelana, ukuhlinzeka, ukubonisa, ukudiliva, ukupha noma ukwedlulisa, ukuze kuthengiswe, noma ukunika imvume, ukuyalela noma ukuvumela ukuthengisa;
- “ukuhlinzeka”**, maqondana nanoma yibuphi utshwala noma isipilithi esingakulungele ukuphuzwa, kusho ukunika umuntu utshwala noma isipilithi esingakulungele ukuphuzwa noma uthi akabuqaphe; 45
- “utshwala besiNtu”**—
- (a) kunencazelo eyanqunywa ngokoMthetho weNtela eziMpahleni eziVela emaZweni angaPhandle, ka-1964 (uMthetho No. 91 ka-1964) (*Customs and Excise Act*), uma ikhona, noma 50
- (b) uma ingekho incazelo ebalulwe kwindima (a), kusebenza incazelo emiswe kwiSheduli 1;
- “impuphu yotshwala besiNtu”**—
- (a) lokhu kunencazelo enqunywe ngokoMthetho weNtela eziMpahleni eziVela emaZweni angaPhandle, ka-1964 (uMthetho No. 91 ka-1964) (*Customs and Excise Act*), uma ikhona; kanti 55
- (b) uma ingekho incazelo ekukhulunywa ngayo endimeni (a), kunencazelo emiswe kwiSheduli 1;
- “lo Mthetho”** kufaka noma iyiphi isheduli, kanye nanoma imuphi umthethonqubo noma isaziso okwenziwe ngaphansi kwalo Mthetho. 60
- (2) Ukuze kusebenze lo Mthetho, udaba lokuthi ngesikhathi sokwakha, sokufaka emabhodleleni, sokuthola utshwala kwamanye amazwe noma ngenye indlela, umuntu

intention of selling that liquor is a matter of fact to be inferred from the circumstances, including but not limited to—

- (a) the frequency and quantity of liquor produced, bottled, imported or acquired by that person;
- (b) the frequency and quantity of sales of liquor by that person; 5
- (c) the existence or absence of any evidence that—
 - (i) at the time that liquor was acquired, the person could reasonably have expected that the acquisition and retention of that liquor could result in commercial gain; or
 - (ii) the person acquired or retained the liquor with the expectation of realising a commercial gain; 10
- (d) the existence or absence of any evidence of advertising, promotional or marketing activity by that person relating to the sale of liquor; and
- (e) the nature of any relationship between that person and a registered person.

Objects of Act 15

2. The objects of this Act are—

- (a) to reduce the socio-economic and other costs of alcohol abuse by—
 - (i) setting essential national norms and standards in the liquor industry;
 - (ii) regulating the manufacture and wholesale distribution of liquor;
 - (iii) setting essential national norms and standards for the regulation of the retail sale and micro-manufacture of liquor; and 20
 - (iv) providing for public participation in the consideration of applications for registration; and
- (b) to promote the development of a responsible and sustainable liquor industry in a manner that facilitates— 25
 - (i) the entry of new participants into the 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 all manufacturing and distribution of liquor or methylated spirits and to the regulation of impotable substances within the Republic. 30

(2) Section 4 of the Act does not apply to a sale of liquor from a private collection.

CHAPTER 2

NATIONAL LIQUOR POLICY 35

Regulation of manufacture and distribution of liquor

4. (1) The Minister must regulate the manufacture and distribution of liquor in accordance with this Act.

(2) A person must not manufacture or distribute liquor, except to the extent that the person is permitted to do so in terms of this Act. 40

(3) Subject to the conditions of its registration, a manufacturer may—

- (a) manufacture liquor; and
- (b) distribute the liquor that it has manufactured—
 - (i) to another manufacturer or to a distributor; and
 - (ii) to a retail seller, if and to the extent permitted by the conditions of registration. 45

(4) Subject to the conditions of registration, a distributor may distribute liquor.

(5) Subject to the conditions of registration or licence, a micro-manufacturer may—

- (a) manufacture liquor in a volume not exceeding the prescribed threshold volume; and 50
- (b) distribute the liquor that it has manufactured to—

ukwenze lokho ngesizathu noma ngenhloso yokubuthengisa lobo tshwala luyinto eyiqiniso ekuyofanela iqondwe ngokubheka izimo, ezifaka kepha kungagcini lapho—

- (a) izikhawu kanye nenani lotshwala obenziwe, obufakwe emabhodleni, obutholwe kwamanye amazwe noma obutholwe ngenye indlela yilowo muntu; 5
- (b) izikhawu kanye nenani lotshwala obuthengiswe yilowo muntu;
- (c) ukuba khona noma ukungabi khona kobufakazi bokuthi—
 - (i) ngesikhathi sokutholwa kwalobo tshwala, lowo muntu ubengabe elindele ukuthi ukubuthola kanye nokubugcina lobo tshwala kungahle kumlethele inzuzo eyimali; noma 10
 - (ii) umuntu uthole noma ugcine utshwala ngoba elindele ukwenza inzuzo eyimali;
- (d) ukuba khona noma ukungabi khona kwanoma yibuphi ubufakazi bokukhangisa, bokugqugqezela ukuthengwa noma bokumaketha okwenziwe yilowo muntu maqondana nokuthengisa kotshwala; kanye 15
- (e) nesimo sobudlelwane phakathi kwalowo muntu kanye nomuntu obhalisiwe.

Izinjongo zoMthetho

2. Izinjongo zoMthetho yilezi—

- (a) ukunciphisa izindleko kwezenhlalo nezomnotho kanye nakokunye ezidalwa wukusebenzisa kabi utshwala ngokuthi— 20
 - (i) kumiswe izinkambiso namazinga kazwelonke embonini yotshwala;
 - (ii) kuhanjise ngomthetho ukukhiqiza kanye nokuphaka ngobuningi utshwala;
 - (iii) kumiswe izinkambiso kanye namazinga kazwelonke asemqoka ukuze kuhanjise ngomthetho wokuthengiswa kanye nokukhiqizwa kancane kotshwala; futhi 25
 - (iv) kuhlinzekelwe ukumbandakanywa komphakathi ekucubunguleni izicelo zokubhaliswa; kanye
- (b) nokugqugqezela ukuthuthuka kwemboni yotshwala emelana nezibopho zayo futhi esimeme ngendlela ezokwenza kube lula— 30
 - (i) ukungena kwabantu abasha embonini;
 - (ii) ukuba nabanikazi bemboni abanhlobonhlobo; futhi
 - (iii) kube nomqondo wokwakha kwezenhlalo embonini.

Ukusetsheziwa koMthetho

3. (1) Kuncike kwisigatshana (2), lo Mthetho usebenza kukona konke ukukhiqizwa nokuphakwa kotshwala nesipilithi esingakulungele ukuphuzwa kanye nasekuhambiseni ngomthetho kwezinto ezingaba yingozi kubantu ngaphakathi kweRiphabhliki. 35

(2) Isigaba 4 soMthetho asingeni eqoqweni umuntu athengise utshwala azenzele bona ngasese.

ISAHLUKO 2

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UMGOMO WOTSHWALA KAZWELONKE

Ukuhambisa ngomthetho ukukhiqizwa nokuwabiwa kotshwala

- 4. (1) UNgqongqoshe kufanele ahambise ngomthetho ukukhiqizwa nokuphakwa kotshwala ngokuhambisana nalo Mthetho.
- (2) Umuntu akufanele akhiqize noma aphake utshwala, eve kulokho avunyelwe ukukwenza ngokwalo Mthetho. 45
- (3) Kuncike kwimibandela yokubhaliswa kwakhe, umkhiqizi—
 - (a) angakhiqiza utshwala; futhi
 - (b) aphake utshwala abukhiqizile—
 - (i) komunye umkhiqizi noma umphaki; kanye 50
 - (ii) nakumuntu obuthengisela umphakathi, uma futhi kuye nobungako lokho kuvumelekile kwimibandela yokubhaliswa.
- (4) Kuncike kwimibandela yokubhaliswa, umphaki angabuphaka utshwala.
- (5) Kuncike kwimibandela yokubhaliswa noma yelayisense, umkhiqizi omncane—
 - (a) angakhiqiza utshwala angevi kwivolumu amiselwe yona; futhi 55
 - (b) angaphaka utshwala abukhiqizile—

- (i) another manufacturer or to a distributor; and
- (ii) to a retail seller, if and to the extent permitted by the conditions of registration.

(6) In addition to any authority granted in terms of applicable provincial legislation, a retail seller may—

- (a) purchase or otherwise acquire liquor other than by manufacturing it; and
- (b) sell or otherwise dispose of liquor as a return of stock to a manufacturer or distributor.

(7) A sale of liquor by a retail seller in circumstances that would constitute a genuine retail sale if the purchaser of that liquor were an unregistered person, does not constitute distribution for the purposes of this Act merely because the purchaser of that liquor is a registered person.

(8) A sale of liquor by a retail seller to any person, whether registered or unregistered, constitutes distribution for the purposes of this Act if the retail seller—

- (a) knew that the purchaser intended to re-sell that liquor; or
- (b) reasonably ought to have concluded that the purchaser intended to resell that liquor, having regard to the circumstances of the sale, including but not limited to the factors listed in section 1(2) and—
 - (i) whether the retail seller knew the purchaser was a registered person, if applicable;
 - (ii) the nature of any delivery instructions given by the purchaser;
 - (iii) any request by the purchaser to establish a discounted pricing arrangement, or a standing arrangement for ordering, billing, credit or payment; and
 - (iv) any request or instructions by the purchaser to receive liquor and tranship that liquor to the purchaser or a third party.

(9) Nothing in this section restricts or limits any right that a manufacturer, distributor or micro-manufacturer may have in terms of applicable provincial legislation to apply to be registered or licensed as a retail seller.

(10) The Minister, by notice in the *Gazette*, must prescribe—

- (a) a threshold volume of liquor contemplated in subsection (5)(a); or
- (b) a formula or mechanism for the calculation of a threshold volume of liquor contemplated in subsection (5)(a).

Regulation of methylated spirits

5. (1) A person must not manufacture or distribute methylated spirits except in accordance with this Act.

(2) The Minister may make regulations—

- (a) declaring any substance to be methylated spirits;
- (b) restricting and regulating the importation, manufacture, distribution, conveyance, keeping or use of methylated spirits;
- (c) restricting or prohibiting the purchase or possession of methylated spirits;
- (d) concerning the denaturation, odorisation, colouring and rendering impotable of methylated spirit sold or kept for sale;
- (e) prescribing the categories and qualifications of persons who may sell methylated spirits to the public;
- (f) prescribing the maximum quantities of methylated spirits that may be sold on to any person; and
- (g) prescribing the form, manner, custody and retention of records or other documents to be kept in respect of any dealing in methylated spirits.

- (i) komunye umkhiqizi noma kumphaki; kanye
- (ii) nakumuntu obuthengisela umphakathi, uma futhi kuye nobungako kuvumelekile kwimibandela yokubhaliswa.
- (6) Ngaphezu kwanoma yimaphi amandla anikezwe ngokomthetho wesifundazwe ofanele, othengisela umphakathi— 5
 - (a) angabuthenga noma abuthole ngenye indlela utshwala ngale kokuthi abukhiqize; futhi
 - (b) angathengisa noma akhiphe utshwala ngokububuyisela kumkhiqizi noma kumphaki njengesitoko esibuyiswayo.
- (7) Ukuthengiswa kotshwala yilowo othengisela umphakathi ngaphansi kwezimo ezibonisa ukuthi lobo tshwala bebuzobe buthengesiselwe umphakathi uma umthengi wabo bekungumuntu ongabhalisiwe, ngeke kusho ukuthi uyabuphaka ngokwezidingo zalo Mthetho ngenxa yokuthi umthengi walobo tshwala kungumuntu obhalisiwe. 10
- (8) Ukuthengiswa kotshwala ngumuntu obuthengisela umphakathi kunoma yimuphi umuntu, noma ngabe ubhalisiwe noma akabhalisiwe, kusho ukuthi uyabuphaka ngokwezidingo zalo Mthetho uma umthengisi wotshwala emphakathini— 15
 - (a) ebazi ukuthi umthengi wabo unenhloso yokuphinde abuthengise lobo tshwala; noma
 - (b) bekufanele ukuthi ngokusebenzisa ingqondo yakhe abone ukuthi umthengi ubenenhloso yokubuthengisa futhi lobo tshwala, ebheke izimo zokuthengisa, kufaka kepha kungapheleli kulokhu okubalwe kwisigaba 1(2) kanye nokuthi— 20
 - (i) umthengisi wotshwala emphakathini ubazi yini ukuthi umthengi ngumuntu obhalisiwe, uma kufanele;
 - (ii) uhlobo lwanoma yimiphi imiyalo yokudiliva enikezwe ngumthengi; 25
 - (iii) noma yisiphi isicelo esenziwe ngumthengi sokuthi athole isaphulelo kwintengo, noma ukulungiselela uhlelo oluzohlale lusetshenziswa ekufakeni ama- oda, ukubalwa kwesikweletu, ukuvula isikweletu noma ukukhokha; kanye
 - (iv) nanoma yisiphi isicelo noma umyalo okunikwe ngumthengi maqondana nokuthi athole utshwala bese ebudlulisela komunye umuntu wesithathu. 30
- (9) Akukho lutho kulesi sigaba okuvimbela noma okuthibela noma yiliphi igunya umkhiqizi, umphaki noma umkhiqizi omncane angase abe nalo ngokomthetho wesifundazwe ofanele lokufaka isicelo sokubhaliswa noma sokunikezwa ilayisense yokuba ngumthengisi wotshwala emphakathini. 35
- (10) UNGqongqoshe, ngokubeka isaziso kwi*Gazethi*, kufanele amise—
 - (a) ivolumu yotshwala ekungafanele yeqiwe ekukhulunywe ngayo kwisigatshana (5)(a); noma
 - (b) ifomula noma indlela yokubala ivolumu yotshwala ekungafanele yeqiwe ekukhulunywe ngayo kwisigatshana (5)(a). 40

Ukuhambisa ngomthetho izipilithi ezingakufanele ukuphuzwa

- 5. (1) Umuntu akufanele akhiqize noma aphake isipilithi esingakulungele ukuphuzwa ngaphandle kokulandela lo Mthetho.
- (2) UNGqongqoshe angenza imithethonqubo—
 - (a) ememezela noma iyiphi into ukuthi iyisipilithi esingakulungele ukuphuzwa; 45
 - (b) evimbela futhi ehambisa ngomthetho ukuthola kwamanye amazwe, ukukhiqiza, ukuphaka, ukuthutha, ukugcina noma ukusebenzisa isipilithi esingakulungele ukuphuzwa;
 - (c) evimbela noma ebeka imigoqo yokwalela ukuthenga noma ukuba nesipilithi esingakulungele ukuphuzwa; 50
 - (d) emayelana nokufaka okungaphuzwa ngabantu esiphuzweni, ukufaka iphunga, ukufaka umbala kanye nokwenza isipilithi esingakulungele ukuphuzwa esithengiwe noma esigcinelwe ukuthengiswa kube yingozi empilweni yabantu ukusiphuza;
 - (e) emisa imikhakha kanye nezinkomba zabantu abangathengisela umphakathi isipilithi esingakulungele ukuphuzwa; 55
 - (f) emisa amanani aphakeme angenakweqiwa esipilithi esingakulungele ukuphuzwa esingathengiswa noma yimuphi umuntu; futhi
 - (g) emisa isimo, indlela, ukugcinwa kanye nokubekwa kwamarekhodi noma eminye imibhalo ekufanele igcinwe maqondana nanoma imiphi imisebenzi ephathelene nesipilithi esingakulungele ukuphuzwa. 60

Prohibition of impotable substance

6. (1) A person must not manufacture, sell or supply any substance under the name of any liquor or methylated spirits, if that substance is not liquor or methylated spirits, respectively, as defined in this Act.

(2) A person must not manufacture, sell or supply as liquor any impotable substance, add an impotable substance to liquor, or sell or supply any liquor to which an impotable substance has been added. 5

Registered activities from registered premises

7. (1) A registrant may carry out its registered activities only in or from registered premises and in accordance with the regulations or any applicable conditions of registration. 10

(2) A registrant may store liquor only in registered premises, and in accordance with the regulations or any applicable conditions of registration.

Prohibitions regarding employment in liquor industry

8. (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 manufacture or distribution 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). 15

(2) Despite any agreement to the contrary, an employer must not— 20

- (a) supply liquor or methylated spirits to any person as an inducement to employment;
- (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— 25
 - (i) supplied to the employee or to a person on behalf of the employee; or
 - (ii) purchased by, or on behalf of, the employee.

Advertising restrictions

9. (1) A person must not advertise— 30

- (a) any liquor or methylated spirits—
 - (i) in a false or misleading manner;
 - (ii) in a manner intended to target or attract minors; or
- (b) any substance that is prohibited in terms of this Act.

(2) A person must not advertise any substance as liquor or methylated spirits if that substance is not liquor or methylated spirits, respectively, as defined in this Act. 35

Prohibition of supply of liquor or methylated spirits to minor

10. (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. 40

(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.

Imigoqo wokwalela izinto ezingaba yingozi empilweni yabantu

6. (1) Umuntu akufanele ukwenza athengise noma ukunika noma yini ngaphansi kwegama lotshwala noma lesipilithi esingakulungele ukuphuzwa, uma leyo nto ingebona utshwala noma isipilithi esingakulungele ukuphuzwa, njengalokho kuchazwe kulo Mthetho. 5

(2) Umuntu akufanele akhiqize athengise noma ukunika njengotshwala noma iyiphi into engaba yingozi empilweni yabantu, ukufaka izinto ezinobungozi etshwaleni, noma ukuthengisa noma ukuhlinzeka noma yibuphi utshwala ekufakwe kubona utho olunobungozi.

Imisebenzi ebhalisiwe eyenzeka emagcekeni abhalisiwe

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7. (1) Obhalisiwe angenza imisebenzi ebhalisiwe emagcekeni abhalisiwe kuphela futhi kuhambisane nemithethonqubo noma yimiphi imibandela yokubhaliswa efanele.

(2) Obhalisiwe angagcina utshwala emagcekeni abhalisiwe kuphela, futhi kuhambisane nemithethonqubo noma yimiphi imibandela yokubhaliswa efanele.

Imigoqo ebhekene nokuqasha embonini yotshwala

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8. (1) Phezu kwanoma yimuphi umthetho noma isivumelwane esiphikisana nalokhu, umuntu obhalisiwe akufanele aqashe umuntu ongakafinyeleli eminyakeni yobudala eyi-16 kunoma yimuphi umsebenzi ophathelene nokukhiqiza noma ukwalopi utshwala noma isipilithi esingakulungele ukuphuzwa ngaphandle uma umsebenzi esaqeqeshwa noma efundela emsebenzini njengalokho kubalulwe kwisigaba 16 soMthetho wokuThuthukisa amaKhono, ka-1998 (uMthetho No. 97 ka-1998) (Skills Development Act). 20

(2) Phezu kwanoma yisiphi isivumelwane esiphikisana nalokhu, noma yimuphi umqashi akufanele—

- (a) anike noma imuphi umuntu utshwala noma isipilithi esingakulungele ukuphuzwa njengento yokumhehela ekuqashweni; 25
- (b) anikeze umsebenzi utshwala noma isipilithi esingakulungele ukuphuzwa esikhundleni seweji noma iholo; noma
- (c) ahlephule ewejini noma eholweni lomsebenzi noma imalini eyinani lotshwala noma isipilithi esingakulungele ukuphuzwa— 30
 - (i) okwanikezwa umsebenzi noma umuntu thizeni egameni lomsebenzi; noma
 - (ii) okwathengwa ngumsebenzi noma egameni lakhe.

Imithetho yokuthibela ezokukhangisa

9. (1) Umuntu akufanele akhangise—

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- (a) noma yibuphi utshwala noma isipilithi esingakulungele ukuphuzwa—
 - (i) ngendlela engamanga noma ekhohlisayo;
 - (ii) ngendlela ehlose ukukhangisela noma ukuheha izingane; noma
- (b) noma yini engavunyelwe ngokwalo Mthetho.

(2) Umuntu akufanele akhangise noma yini njengotshwala noma isipilithi esingakulungele ukuphuzwa uma leyo nto ingebona utshwala noma isipilithi esingakulungele ukuphuzwa, njengalokho kuchazwe kulo Mthetho. 40

Imigoqo evimbela ukunikeza izingane utshwala noma isipilithi eziwushevu ukuphuza

10. (1) Umuntu akufanele ukunika ingane utshwala noma isipilithi esingakulungele ukuphuzwa. 45

(2) Ngale kokushiwo yisigatshana (1), umzali, umondli wengane omdala noma umuntu obhekene nokupha isidlo esingcwele ngokwenkolo, kungathi ngezikhathi ezithize ahlinzeke ingane inani elikahle lotshwala ukuze ingane leyo ibuphuze ekhona futhi eqaphile umzali, umondli noma omunye umuntu. 50

(3) Umuntu kufanele aqikelele ngokwanele ukuthola ukuthi umuntu uyingane noma cha ngaphambi kokumnika utshwala noma isipilithi esingakulungele ukuphuzwa.

(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.

(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.

(6) A minor must not—

- (a) produce liquor;
- (b) import liquor; or
- (c) supply liquor to any other person.

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CHAPTER 3

REGISTRATION AS MANUFACTURER AND DISTRIBUTOR

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Categories of registration and qualifications

11. (1) A qualified person, including any registered person—

- (a) may apply to the Minister, in the prescribed manner and form, to be registered as a manufacturer or distributor of liquor, or both; and
- (b) must indicate clearly in the application the extent to which it wishes to distribute liquor.

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(2) Any person may be registered as a manufacturer or distributor of liquor, or both, except a person who—

- (a) is a minor at the date of submitting the application for registration;
- (b) is an unrehabilitated insolvent;
- (c) at the time of application is committed in terms of the Mental Health Act, 1973 (Act No. 18 of 1973);
- (d) has been convicted of a contravention of this Act within the three years immediately preceding the date of application; or
- (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—
 - (i) after the coming into operation of this Act; and
 - (ii) within the three years immediately preceding the date of application.

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Determination of application

12. (1) The Minister may—

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- (a) require further information relevant to an application; and
- (b) refuse an application if the applicant has not supplied any information required in terms of paragraph (a) within the prescribed time.

(2) If an application complies with the provisions of this Act, the Minister, after considering the application, must either—

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- (a) register the applicant, subject to section 13; or
- (b) refuse to register the applicant if the applicant is disqualified in terms of section 11(2).

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

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Conditions of registration

13. (1) If the Minister is required to register an applicant in terms of section 12, the Minister must further consider the application, relating to the following criteria:

- (a) The commitments made by the applicant in terms of black economic empowerment;
- (b) The applicant's proposed contribution to combating alcohol abuse, including whether the applicant has subscribed to any industry code of conduct approved by the Minister; and

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(4) Ingane akufanele iqambe amanga ngeminyaka yayo ngoba ifuna ukuvumisa umuntu ukuthi ayithengisele noma ayinike utshwala noma isipilithi esingakulungele ukuphuzwa.

(5) Umuntu akufanele aqambe amanga ngeminyaka yengane ngoba efuna ukuvumisa umuntu ukuba athengisele noma anike leyo ngane utshwala noma isipilithi esingakulungele ukuphuzwa. 5

(6) Ingane akufanele—

- (a) ikhiqize utshwala;
- (b) ithole utshwala kwamanye amazwe; noma
- (c) inlinzeke utshwala kunoma ngubani omunye. 10

ISIAHLUKO 3

UKUBHALISWA NJENGOMKHIQIZI KANYE NOMABI

Imikhakha yokubhalisa kanye nokufanelisayo

11. (1) Umuntu ofaneleyo, kufaka noma yimuphi umuntu obhalisiwe—

- (a) angafaka isicelo kuNgqongqoshe, ngendlela nakwifomu elifanele, ukuba abhaliswe njengomkhiqizi noma umabi wotshwala, noma kokubili; futhi 15
- (b) kufanele asho kucace esicelweni isilinganiso afuna ukusaba sotshwala.

(2) Noma yimuphi umuntu angabhaliswa njengomkhiqizi noma umabi wotshwala, noma kokubili, ngaphandle komuntu—

- (a) oseyingane ngosuku lokungenisa isicelo sokubhaliswa; 20
- (b) owehlulekile ukukhokha izikweletu zakhe;
- (c) okuthi ngesikhathi sokufaka isicelo abe engogulayo ngokoMthetho wokuGula ngeNgqondo, ka-1973 (uMthetho No. 18 ka-1973) (*Mental Health Act*);
- (d) oseke walahlwa yicala ngokwephula lo Mthetho phakathi kweminyaka emithathu kusukela ngaphambi kancane nje kosuku lokufaka isicelo; noma 25
- (e) oseke walahlwa yicala, ngaphansi komthetho ofanele, ngecala nemisuka yalo eliphikisana nezinjongo kanye nenhloso yalo Mthetho, nganoma yisiphi isikhathi—
- (i) emva kokuqala ukusebenza kwalo Mthetho; futhi 30
- (ii) ngaphambi kweminyaka emithathu kusukela ngaphambi kancane nje kosuku lokufaka isicelo.

Isinqumo ngesicelo

12. (1) UNgqongqoshe—

- (a) angacela olunye ulwazi oluhambisana nesicelo; futhi 35
- (b) angasenqaba isicelo uma ofake isicelo engalethanga ulwazi oludingekayo ngokwendima (a) singakedluli isikhathi esimisiwe.

(2) Uma isicelo sihambisana nemibandela yalo Mthetho, uNgqongqoshe, emva kokucubungula isicelo, kufanele enze okukodwa kulokhu—

- (a) abhalise ofake isicelo, kuncike kwisigaba 13; noma 40
- (b) enqabe ukubhalisa ofake isicelo uma ofake isicelo ephucwe ukufaneleka ngokwesigaba 11(2).

(3) Uma uNgqongqoshe enqaba isicelo, uNgqongqoshe kufanele anikeze ofake isicelo izizathu ezilotshiwe maqondana naleso sinqumo.

Imibandela yokubhalisa

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13. (1) Uma uNgqongqoshe kudingeka abhalise ofake isicelo ngokwesigaba 12, uNgqongqoshe kuyofanela aphinde acubungule isicelo, maqondana nemikhakha elandelayo:

- (a) Ukuzbophezela okwenziwe ngofake isicelo maqondana nokunikezela amandla ezomnotho kwabansundu; 50
- (b) lsethembisa sokubamba iqhaza esenziwe ngofake isicelo ekutheni kuqedwe ukusetshenziswa kabi kotshwala, kufaka nokuthi ofake isicelo uyahambisana yini nanoma yimiphi imithetho yokuziphatha embonini evunye nguNgqongqoshe; kanye

- (c) The extent to which the proposed registration will materially restrict or promote—
- (i) new entrants to the liquor industry;
 - (ii) job creation within the liquor industry;
 - (iii) diversity of ownership within the liquor industry; 5
 - (iv) efficiency of operation of the liquor industry;
 - (v) exports; or
 - (vi) competition within the liquor industry.
- (2) Before proposing any conditions on a registration, the Minister may—
- (a) consult the Competition Commission when considering the matters set out in subsection (1)(c); and 10
 - (b) publish a notice inviting public submissions concerning the application.
- (3) The Minister, having regard to the objects and purposes of this Act, the circumstances of the application, the declared wishes of the applicant in terms of section 11(1)(b) and the criteria set out in subsection (1), may— 15
- (a) propose any reasonable and justifiable conditions on the registration of an applicant who seeks to be registered only as a distributor; or
 - (b) propose any reasonable and justifiable conditions on the registration of any other applicant, including but not limited to, conditions that determine whether, or the extent to which, the applicant may distribute liquor to retail 20 sellers.
- (4) In addition to the provisions of subsection (3), if an applicant has a director, member, trustee, partner or member of its board or executive body who falls in the category of persons disqualified in terms of section 11(2), the Minister may propose a condition designed to prevent that person from exercising any decision-making 25 authority with respect to the proposed registered activities.
- (5) If the Minister proposes conditions on an applicant's registration, the Minister must inform the applicant of the proposed conditions, and the reasons for them in writing.
- (6) An applicant who has received a proposal of conditions may respond to the 30 Minister within—
- (a) 30 days from the date on which the applicant is informed of the proposal; or
 - (b) such longer period as the Minister may permit, on good cause shown.
- (7) If an applicant who has received a proposal of conditions—
- (a) consents to the conditions being imposed, the Minister must register the 35 applicant, subject only to the conditions as proposed; or
 - (b) does not respond, or responds but does not consent, to the proposed conditions, the Minister must consider any response submitted by the applicant and may—
 - (i) refuse to register the applicant, if it has not responded; or 40
 - (ii) finally determine the conditions to be imposed, and register the applicant.
- (8) The Minister must—
- (a) inform an applicant in writing of a decision in terms of subsection (7); and
 - (b) provide written reasons for that decision if— 45
 - (i) the Minister has refused to register the applicant; or
 - (ii) the Minister has amended a previously proposed condition.

Certificate, validity, and public notice of registration

- 14.** (1) Upon registering an applicant, the Minister must—
- (a) issue a prescribed certificate of registration to the applicant; and
 - (b) enter the registration in the register. 50
- (2) A valid certificate of registration, or a certified copy of it, is sufficient proof that the registrant is registered in terms of this Act.
- (3) A registration—
- (a) takes effect on the date on which the certificate of registration is issued; and

- (c) nobubanzi besi isicelo sokubhaliswa esifakiwe esiyovimbela noma sigququzele—
- ukungena kwabantu abasha embonini yotshwala;
 - ukwakhiwa kwamathuba emisebenzi ngaphakathi kwemboni yotshwala;
 - ukwehlukahluka kwabantu abangabanikazi ngaphakathi kwemboni yotshwala;
 - ukusebenza kahle kwezinhlelo embonini yotshwala;
 - ukuthengisela amazwe angaphandle; noma
 - ukuncintisana ngaphakathi kwemboni yotshwala.
- (2) Ngaphambi kokuhlongoza noma yimiphi imibandela ekubhalisweni, uNgqongqoshe—
- angabonisana neKhomishana yokuNcintisana lapho ecubungula izindaba ezibekwe kwisigatshana (1)(c);
 - angakhipha isaziso ameme izimvo zomphakathi maqondana nesicelo.
- (3) UNgqongqoshe, ezibhekele izinjongo nezinhloso zalo Mthetho, izimo zesicelo, izifiso ezichaziwe zofake isicelo maqondana nesigaba 11(1)(b) kanye nemikhakha emiswe kwisigatshana (1)—
- angahlongoza noma yimuphi umbandela ofanele futhi onobulungiswa ekubhalisweni kofake isicelo ofuna ukubhaliswa njengompabi kuphela;
 - angahlongoza noma yimiphi imibandela efanele futhi enezizathu ezizwakalayo ekubhalisweni kwanoma yimuphi omunye umuntu ofake isicelo, kufaka kepha kungagcini, kwimibandela enquma ukuthi angabe, noma ofake isicelo angabela abathengisi botshwala kangakanani.
- (4) Ngaphezu kwemibandela ehlinzekelwe yisigatshana (3), uma ofake isicelo enomqondisi, ilungu, umphatheli (*i-trustee*), abambisene naye noma ilungu lebhodi lakhe noma umgwamanda ophethe ongena ngaphansi komkhakha wabantu abangafanelekile ngokwesigaba 11(2). UNgqongqoshe angahlongoza umbandela owakhelwe ukuvimbela lowo muntu ekutheni abe namandla okuthatha izinqumo maqondana nemisebenzi ekuhlongozwa ukuthi ibhaliswe.
- (5) Uma uNgqongqoshe ehlongoza imibandela ekubhalisweni kofake isicelo, uNgqongqoshe kufanele azise ofake isicelo ngemibandela ehlongozwayo, kanye nezizathu zayo, abhale phansi.
- (6) Ofake isicelo osethole imibandela ehlongozwayo angamphendula uNgqongqoshe kungakapheli—
- izinsuku ezingama-30 kusukela osukwini lapho ofake isicelo atshelwa khona ngokuhlongozwayo; noma
 - isikhathi eside esingavunyelwa nguNgqongqoshe, lapho kuvezwa izizathu eziqotho.
- (7) Uma ofake isicelo osethole imibandela ehlongozwayo—
- evumelana nemibandela emisiwe, uNgqongqoshe kufanele ambhalise ofake isicelo, kuncike kwimibandela ehlongoziwe; noma
 - engaphenduli, noma ephendula kepha engavumelani nemibandela ehlongoziwe, uNgqongqoshe kufanele acubungule noma iyiphi impendulo elethwe ngofake isicelo futhi—
 - angenqaba ukubhalisa ofake isicelo, uma engakaphenduli; noma
 - angagcina esethathe isinqumo ngemibandela ezomiswa, bese ebhalisa ofake isicelo.
- (8) UNgqongqoshe kufanele—
- azise ofake isicelo ngokumlobela ngesinqumo esithathwe ngokwesigatshana (7); futhi
 - ahlinzeke izizathu ezilotshiwe zokuthi kuthathwe lesi sinqumo uma—
 - uNgqongqoshe enqabile ukubhalisa ofake isicelo; noma
 - uNgqongqoshe echibiyele umbandela owawuhlongozwe phambilini.

Isitifiketi, ukusebenza, kanye nesaziso somphakathi ngokubhalisa

14. (1) Lapho esebhalise ofake isicelo, uNgqongqoshe kufanele—
- anike ofake isicelo isitifiketi sokubhaliswa esimisiwe; futhi
 - abhale kwirejista.
- (2) Isitifiketi sokubhaliswa esisebenzayo, noma ikhophi efungelwe yaso, wubufakazi obanele bokuthi obhalisiwe ubhaliswe ngokwalo Mthetho.
- (3) Ukubhalisa—
- kuqala ukusebenza ngosuku lapho kukhishwa isitifiketi sokubhaliswa; bese

- (b) remains in effect until—
 - (i) the registrant is deregistered; or
 - (ii) the registration is cancelled in terms of this Act.
- (4) A registrant must—
 - (a) reflect its registered status and registration number on all of its trading documents; 5
 - (b) comply with its conditions of registration and the provisions of this Act;
 - (c) pay the prescribed annual renewal fees within the prescribed time;
 - (d) keep any records prescribed in terms of section 42(1)(b) in the prescribed manner and form; and 10
 - (e) file any prescribed reports with the Minister in the prescribed manner and form.

Transfer of registration

- 15. (1) The registration of a registrant 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; 15
 - (b) the person to whom the registration is to be transferred is not disqualified under section 11(2); and
 - (c) the Minister has considered the application and approved the transfer.
- (2) If an application in terms of subsection (1) proposes a transfer of registration to— 20
 - (a) an unregistered person, section 12, read with the changes required by the context, applies to that application; or
 - (b) a registered person, sections 12 and 13, read with the changes required by the context, apply 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 Minister in the prescribed manner and form. 25
- (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 fresh application for registration under section 11(1) must be filed in the name of the joint venture. 30

Variation of conditions of registration

- 16. (1) The Minister may reconsider, and vary the conditions of registration of any registrant, in any of the following circumstances:
 - (a) If the registrant, after registration in terms of this Act, becomes registered or licensed as a micro-manufacturer or retail seller in terms of applicable provincial legislation. 35
 - (b) If the registrant has notified the Minister of a material alteration contemplated in subsection (3).
 - (c) Upon request by the registrant submitted to the Minister in the prescribed manner and form. 40
 - (d) If at least five years have passed since the Minister last reviewed or varied the conditions of registration in terms of this section.
- (2) A registrant who applies for registration or licensing as a micro-manufacturer or retail seller in terms of applicable provincial legislation must notify the Minister of that application in the prescribed manner and form. 45
- (3) A registrant must notify the Minister in the prescribed manner and form if it proposes to—
 - (a) relocate any of the activities authorised under its certificate of registration; or

- (b) kuhlala kusebenza kuze kube—
 - (i) obhalisiwe uyesulwa; noma
 - (ii) ukubhaliswa kuyacishwa ngokwalo Mthetho.
- (4) Obhalisiwe kufanele—
 - (a) aveze umkhakha wokubhaliswa kwakhe kanye nenombolo yokubhaliswa kuyona yonke imibhalo yakhe yokuhweba; 5
 - (b) ahambisane nemibandela yokubhaliswa kwakhe kanye nemibandela yalo Mthetho;
 - (c) akhokhe izimali zokuvuselela ukubhaliswa minyaka yonke ezimisiwe singakapheli isikhathi esimisiwe; 10
 - (d) agcine noma yimaphi amarekhodi amisiwe ngokwesigaba 42(1)(b) ngendlela nangefomu emisiwe; futhi
 - (e) athumele kuNgqongqoshe imibiko emisiwe ngendlela nangefomu emisiwe.

Ukudlulisela ukubhaliswa komunye umuntu

- 15. (1) Ukubhaliswa komuntu obhalisiwe kungedluliselwa komunye umuntu uma— 15
 - (a) obhalisiwe, noma umuntu ekufanele kwedluliselwe kuye ukubhaliswa, befaka isicelo ngendlela nangefomu emisiwe becela imvume yokudlulisela ukubhaliswa;
 - (b) umuntu ekufanele kwedluliselwe kuyena ukubhaliswa engephucwanga ukufaneleka kokubhaliswa ngaphansi kwesigaba 11(2); futhi 20
 - (c) uNgqongqoshe esesicubungile isicelo wase evuma ukuthi kudluliswe ukubhaliswa.
- (2) Uma isicelo ngokwesigatshana (1) sihlongoza ukuthi kudluliselwe ukubhalisa—
 - (a) kumuntu ongabhalisiwe, isigaba 12, sifundwa kanye nezinguquko ezingdingwa yindikimba, siyosebenza kuleso sicelo; noma 25
 - (b) umuntu obhalisiwe, isigaba 12 no 13, zifundwa kanye nezinguquko ezingdingwa yindikimba, ziyosebenza kuleso sicelo.
- (3) Uma umuntu obhalisile ethola amandla ekulawula omunye umuntu obhalisile okumunye umkhakha wokubhalisa, labo bantu ababhalisile kumele bazise uNgqongqoshe. Ngokwenqubo eyisinqumo bagcwalise namaformu agcwaliswayo 30 ngokwe sinqumo.
- (4) Uma abantu ababhalisiwe ababili noma ngaphezulu bevula ibhizinisi ngokubambisana ukuze babe semkhakheni wokubhaliswa owehlukile kulo ababhalisiwe ngaphansi kwawo bengabodwana, kufanele bathumele isicelo sokubhaliswa esisha egameni lebhizinisi elihlanganyelwe ngaphansi kwesigaba 11(1). 35

Ukwehlukahluka kwemibandela yokubhalisa

- 16. (1) UNgqongqoshe angabuye acabange kabusha, bese ejika imibandela yokubhaliswa yanoma yimuphi umuntu obhalisiwe, ngaphansi kwanoma yisiphi isimo kwezilandelayo:
 - (a) Uma obhalisiwe, emva kokubhaliswa ngokwalo Mthetho, ebhaliswa noma ethola ilayisense yokuba ngumkhiqizi omncane noma umthengisi wotshwala emphakathini ngokomthetho wesifundazwe ofanele. 40
 - (b) Uma obhalisiwe azise uNgqongqoshe ngezinguquko ezinzulu ezibalulwe kwisigatshana (3).
 - (c) Lapho obhalisiwe efaka isicelo esibhekisa kuNgqongqoshe ngendlela nangefomu emisiwe. 45
 - (d) Uma sekudlule okungenani iminyaka emihlanu kusukela uNgqongqoshe agcina ukubuyekisa noma ukuguqula imibandela yokubhaliswa ngokwalesi sigaba.
- (2) Obhalisiwe ofaka isicelo sokubhaliswa noma sokuthola ilayisense yokuba ngumkhiqizi omncane noma umthengisi wotshwala emphakathini ngokomthetho wesifundazwe ofanele kufanele azise uNgqongqoshe ngaleso sicelo ngendlela nangefomu emisiwe. 50
- (3) Obhalisiwe kufanele azise uNgqongqoshe ngendlela nangefomu emisiwe uma ehlongoza— 55
 - (a) ukuthuthela kwenye indawo noma imuphi umsebenzi kwevunywe ngaphansi kwesitifiketi sokubhaliswa sakhe; noma

(b) alter the nature or conduct of any of those activities, in a manner that differs in a material way from that specified in its application for registration.

(4) Within 30 days after receiving a notice in terms of subsection (2) or (3), the Minister must advise the registrant either that—

(a) the Minister will review the conditions of registration in light of the proposed changes; or

(b) the Minister accepts the proposed changes.

(5) If the Minister reviews conditions of registration in terms of this section—

(a) section 13, read with the changes required by the context, applies to the review; and

(b) the Minister may propose new or alternative conditions—

(i) only in relation to the registrant's materially altered circumstances, in the case of a review contemplated in subsection (1)(b) or (c); or

(ii) to the extent permitted by section 13, having regard to the circumstances at the time of the review, in any other case.

Death, insolvency or incapability of registered person

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

(a) an executor of a deceased estate;

(b) a liquidator or trustee of an insolvent estate; and

(c) a curator.

(2) If a registrant dies, becomes insolvent or is placed under curatorship, the administrator of that registrant's estate may, for the purposes of the administration of the estate—

(a) continue to conduct the registered activities in the name of the estate; or

(b) make a proposal to the Minister in terms of section 15 to transfer the registration to another qualified person.

(3) Any person may apply in the prescribed manner and form to the Minister for the appointment of a person to conduct the registered activities of a registrant, pending the appointment of an administrator contemplated in subsection (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 activities in the name of the estate, until an administrator has been appointed as contemplated in this section.

Application, registration and renewal fees

18. (1) The Minister may prescribe—

(a) an application fee to be paid in connection with any application in terms of this Act;

(b) an initial registration fee to be paid upon registration; and

(c) an annual registration renewal fee to be paid by registrants.

(2) The Minister may prescribe different fees in terms of subsection (1) for different categories of applicants or registrants.

Conditions of licence

19. (1) In addition to the authority set out in section 17, the Minister may review, and propose new conditions on, a registration if the registrant—

(a) with respect to a matter arising out of the registration of that person in terms of this Act, has contravened—

(i) Chapter 2 of the Competition Act, 1998 (Act No. 89 of 1998);

- (b) ukuguqula uhlobo noma indlela yokwenza noma yimuphi kuleyo misebenzi, ngendlela eyehluka ngokunzulu kuleyo emiswe kwisicelo sakhe sokubhaliswa.
- (4) Zingakapheli izinsuku ezingama-30 emva kokuthola isaziso ngokwesigatshana (2) noma (3), uNgqongqoshe kufanele azise obhalisiwe okukodwa phakathi kwalokhu— 5
- (a) uNgqongqoshe uzobuyekeza imibandela yokubhaliswa ngokubhekela izinguquko ezihlongozwayo; noma
- (b) uNgqongqoshe uyazemukela izinguquko ezihlongozwayo.
- (5) Uma uNgqongqoshe ebuyekeza imibandela yokubhaliswa ngokwalesi sigaba— 10
- (a) isigaba 13, sifundwa kanye nezinguquko ezidingwa yindikimba, siyosebenza kulokho kubuyekeza;
- (b) uNgqongqoshe angahlongoza imibandela emisha noma eyehlukile—
- (i) maqondana nezinguquko zobhalisiwe ezinzulu kuphela, uma kuzobuyekwa ngendlela ekwisigatshana (1)(b) noma (c); noma 15
- (ii) ngobubanzi obuvunyelwa yisigaba 13, kukhunjulwe izimo ngesikhathi sokubuyekeza, kunoma yisiphi esinye isimo.

Ukufa, ukuwa kwebhizinisi noma ukwehluleka komuntu obhalisiwe

17. (1) Kulesi sigaba, amagama athi “umphathi wefa” afaka—
- (a) umabi wefa lomuntu oshonile; 20
- (b) okhokhisa izikweletu zomuntu owehlulekile noma umphatheli obekiweyo wamafa asezikweletini; kanye
- (c) nomphathi wamafa abantu abangenakuzi-phathela ngokwabo.
- (2) Uma obhalisiwe eshona, noma ewelwa ynbhizinisi noma kubekwa amafa akhe ngaphansi komphathi wamafa, umphathi wefa lalowo muntu obhalisiwe, ukuze kwenganyelwe amafa— 25
- (a) angaqhubeka nokwenza imisebenzi yobhalisiwe egameni lefa; noma
- (b) enze isiphakamiso kuNgqongqoshe ngokwesigaba 15 sokuthi kwedluliselwe ukubhaliswa komunye umuntu ofanelekile.
- (3) Noma ngubani angafaka isicelo ngendlela nangefomu emisiwe kuNgqongqoshe sokuthi kuqokwe umuntu ozophatha imisebenzi yomuntu obhalisiwe, kusamelwe ukuqokwa komphathi wefa ekukhulunywa ngakho kwisigatshana (2). 30
- (4) Ngaphambi kokuvuma isicelo esenziwe ngokwesigatshana (3), uNgqongqoshe kufanele aneliseke ngokuthi—
- (a) wonke umuntu othintekayo ngezezimali kuloludaba unikezwe isikhathi esanele maqondana nesicelo; 35
- (b) akakaqokwa umphathi wefa; futhi
- (c) kunezizathu eziqotho zokukholwa wukuthi umphathi wefa uzoqokwa.
- (5) Umuntu oqokwe ngokwesigatshana (3), ukuze kwenganyelwe ifa, angaqhubeka nokwenza imisebenzi ebhalisiwe egameni letu, kuze kube isikhathi lapho sekuqokwe umphathi wefa njengoba kubalulwe kulesi sigaba. 40

Izimali zokufaka isicelo, zokubhalisa nezokuvuselela ukubhalisa

18. (1) UNgqongqoshe angamisa—
- (a) imali yokufaka isicelo ekufanele ikhokhwe maqondana nanoma yisiphi isicelo esenziwe ngokwalo Mthetho; 45
- (b) imali yokubhalisa ekufanele ikhokhwe lapho ubhaliswa; kanye
- (c) nemali yokuvuselela ukubhalisa minyaka yonke ekufanele ikhokhwe ngababhalisiwe.
- (2) Ungqongqoshe angamisa izimali ezahlukene ngokwesigatshana (1) emikhakheni eyehlukene yabafaka izicelo noma ababhalisiwe. 50

Imibandela yelayisense

19. (1) Ngaphezu kwamandla abekwe kwisigaba 17, uNgqongqoshe angabuyekeza bese ehlongoza imibandela emisha ngokubhalisa uma obhalisiwe—
- (a) maqondana nodaba oluqubuka ekubhalisweni kwalowo muntu ngokwalo Mthetho, aphule— 55
- (i) Isahluko 2 soMthetho wokuNcintisana, ka-1998 (uMthetho No. 89 ka-1998);

- (ii) The Counterfeit Goods Act, 1997 (Act No. 37 of 1997);
- (iii) The Liquor Products Act, 1989 (Act No. 60 of 1989);
- (iv) The Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972); and
- (v) The Customs and Excise Act, 1964 (Act No. 91 of 1964); 5
- (b) has not met its commitments in terms of black economic empowerment, and cannot provide adequate reasons for failing to do so; or
- (c) has not met its commitments or complied with its plans concerning combating alcohol abuse, or has breached an approved code of conduct, and cannot provide adequate reasons for failing to do so. 10
- (2) Before imposing a condition in terms of subsection (1)(b) or (c), the Minister must provide the registrant with a reasonable opportunity to remedy the shortcoming in its conduct.
- (3) Section 13, read with the changes required by the context, applies to a proposal by the Minister to impose conditions under this section. 15
- (4) The Minister may propose new or alternative conditions under this section only to the extent that is reasonable and justifiable in the circumstances that gave rise to the review.

Cancellation of registration

- 20. (1) A registration may be cancelled— 20
 - (a) by the Minister, in terms of subsection (2) or (3);
 - (b) voluntarily by the registrant, in terms of section 21; or
 - (c) as a consequence of sequestration, winding-up or dissolution, in terms of section 22.
- (2) The Minister may cancel a registration if the registrant— 25
 - (a) becomes disqualified on any of the grounds set out in section 11(2);
 - (b) does not comply with a condition of registration;
 - (c) repeatedly breaches the provisions of any legislation listed in section 19(1), or repeatedly fails to meet a commitment contemplated in section 13(1)(a) or (b); or 30
 - (d) does not comply with the provisions of this Act.
- (3) In addition to the authority set out in subsection (2), the Minister may cancel the registration of a registrant if the registrant—
 - (a) has been served a compliance notice in terms of section 31, and— 35
 - (i) has failed to comply with it; or
 - (ii) has not objected to the notice in terms of section 32; or
 - (b) if it has objected—
 - (i) failed to comply with the order of the Minister given in terms of section 32(2); or
 - (ii) has not succeeded in any review or appeal against that order in terms of section 33. 40
- (4) If the Minister has cancelled a registration, the Minister must notify the former registrant in writing of—
 - (a) the cancellation;
 - (b) the reasons for the cancellation; and 45
 - (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. 50
- (6) A registration is cancelled as of the date on which the Minister notifies the former registrant of the cancellation, which, in the case of a cancellation in terms of section 21, must be on the date specified by the registrant in the notice of voluntary cancellation.

- (ii) UMthetho weziMpahla eziwuMgunyathi, ka-1997 (uMthetho No. 37 ka-1997) (*Counterfeit Goods Act*);
- (iii) UMthetho wemiKhiqizo yoTshwala, ka-1989 (uMthetho No. 60 ka-1989) (*Liquor Products Act*);
- (iv) UMthetho wokuDla okusemaThinini, iziMonyo kanye neziBulalazinambuzane, ka-1972 (uMthetho No. 54 ka-1972) (*Foodstuffs, Cosmetics and Disinfectants Act*); kanye 5
- (v) NoMthetho weNtela eziMpahleni eziVela emaZweni angaPhandle, ka-1964 (uMthetho No. 91 ka-1964) (*Customs and Excise Act*);
- (b) engakazifezi izethembiso zakhe maqondana nokunikeza amandla ezomnotho kwabansundu, futhi engenakunikeza zizathu ezibonakalayo zokwehluleka kwakhe ukufeza lokho; noma 10
- (c) engakafezi izethembiso zakhe noma engathobelanga izinhlelo zakhe eziphathelele nokuqeda ukusetshenziswa kabi kotshwala, noma ephambane nemithetho yokuziphatha evunyiwe, futhi engenakunikeza izizathu ezizwakalayo zokwehluleka ukwenza lokho. 15
- (2) Ngaphambi kokufaka umbandela ngokwesigatshana (1)(b) noma (c), uNgqongqoshe kufanele anikeze obhalisiwe ithuba elanele lokulungisa amaphutha ekuziphatheni kwakhe.
- (3) Isigaba 13, uma sifundwa kanye nezinguquko ezidingwa yindikimba, sibhekene nesiphakamiso sikaNgqongqoshe sokubeka imibandela ngaphansi kwalesi sigaba. 20
- (4) UNgqongqoshe angahlongoza imibandela emisha noma eyehlukile ngaphansi kwalesi sigaba kufinyelele kuphela ezimweni lapho kwenza ingqondo futhi kuvumelana nalokho okwaletha isimo sokubuyeka ekuqaleni.

Ukwesula ukubhalisa

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- 20. (1) Ukubhalisa kungesulwa—
 - (a) nguNgqongqoshe, ngokwesigatshana (2) noma (3);
 - (b) ngobhalisiwe ngokuzikhethela, ngokwesigaba 21; noma
 - (c) ngenxa yokudliwa kwebhizinisi, ukuvalwa noma ukuchithwa kwalo, ngokwesigaba 22. 30
- (2) UNgqongqoshe angesula ukubhaliswa uma obhalisiwe—
 - (a) ephucwa ukufaneleka ngezizathu ezibekwe kwisigaba 11(2);
 - (b) engathobeli umbandela wokubhaliswa;
 - (c) elokhu aphula imibandela yanoma yimuphi umthetho kwebalwe kwisigaba 19(1), noma elokhu ehluleka ukufeza izethembiso ezibalulwe kwisigaba 13(1)(a) noma (b); 35
 - (d) engathobeli imibandela yalo Mthetho.
- (3) Ngaphezu kwamandla abekwe kwisigatshana (2), uNgqongqoshe angesula ukubhaliswa kobhalisiwe uma obhalisiwe—
 - (a) esenikwe isaziso sokuthobela imithetho ngokwesigaba 31, futhi— 40
 - (i) ehlulekile ukusithobela; noma
 - (ii) engazange asiphikise isaziso ngokwesigaba 32; noma
 - (b) uma esiphikisile—
 - (i) ehlulekile ukuthobela umyalo kaNgqongqoshe okhishwe ngokwesigaba 32(2); noma 45
 - (ii) engaphumelelanga kunoma yikuphi ukubuyeka noma ukudlulisa isikhalo maqondana nalowo myalo ngokwesigaba 33.
- (4) Uma uNgqongqoshe esesule ukubhaliswa, uNgqongqoshe kufanele azise obebhalisiwe ngokumlobela mayelana— 50
 - (a) nokwesulwa;
 - (b) nezizathu zokwesulwa; kanye
 - (c) nosuku esulwa ngalo.
- (5) Uma ukubhaliswa kwesuliwe ngokwalesi sigaba, isigaba 21 noma isigaba 22, uNgqongqoshe kufanele—
 - (a) esule isitifiketi sokubhaliswa; futhi 55
 - (b) achibiyele irejista ngokufanele.
- (6) Ukubhaliswa kwesulwa kusukela ngosuku lapho uNgqongqoshe azisa obebhalisile ngokwesulwa, okuthi esimweni sokwesula ngokwesigaba 21, kufanele kube ngosuku olumiswe ngobhalisiwe ukuazisa obabhalisiwe ngokucishwa.

Voluntary cancellation

21. A registrant may cancel the 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 seven days after the date of the notice, on which the cancellation is to take effect.

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Cancellation as consequence of sequestration or winding-up

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

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(2) Upon receiving a notice in terms of subsection (1), the Minister must cancel the registration concerned.

National record of registrations

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

(2) The Minister must—

- (a) permit any person to inspect the register established in terms of subsection (1), during normal business hours, and upon payment of the prescribed fee;
- (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.

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(3) Any person may—

- (a) inspect a copy of a registration certificate issued in terms of this Act; and
- (b) obtain a copy of it, upon payment of the prescribed fee.

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Review or appeal of Minister's decisions

24. (1) A decision of the Minister in terms of this Chapter is subject to review or appeal to the extent provided for, and in accordance with, the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

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(2) In addition to any other remedy available to a Court conducting a review of a decision by the Minister in terms of this Chapter, the Court may make an order setting aside any condition attached to a registration, if the court is not satisfied that the condition is reasonable and justifiable, having regard to the objects and purposes of this Act, the circumstances of the application or review, as the case may be, and the provisions of section 13.

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CHAPTER 4**COMPLIANCE****Designation of inspectors**

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25. (1) The Minister—

- (a) may designate any person as an inspector, with either general or specific authority to exercise powers in terms of this Act; and
- (b) must issue to each inspector a certificate in the prescribed form stating that a person has been designated as an inspector.

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

Ukuzikhethela ukwesulwa

21. Obhalisiwe angesula ukubhaliswa ngokunika uNgqongqoshe isaziso esilotshiwe ngendlela nangefomu emisiwe—

- (a) asho inhloso yakhe yokuzikhethela ukwesula ukubhaliswa kanye nezizathu zokwenza lokho; futhi
- (b) abeke usuku, okungenani kube sezinsukwini eziyisikhombisa emva kosuku lokuletha isaziso, lapho ukwesulwa kuyoqala ngalo ukusebenza.

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Ukwesulwa ngenxa yokudliwa kwebhizinisi noma ukuphethwa kwalo

22. (1) Uma ifa lobhalisiwe liphethwa noma lidliwa kungedluliselwanga komunye umuntu ukubhalisa ngokwesigaba 15, okhokha izikweletu zomuntu osehlulekile ngokuhlakaza ibhizinisi noma umphatheli kufanele azise uNgqongqoshe ngendlela nangefomu emisiwe zingakapheli izinyanga eziyisithupha emva kokudliwa kwebhizinisi noma ukuphethwa kwalo, noma kube yisikhathi eside ngangokuvuma kukaNgqongqoshe uma eceliwe.

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(2) Lapho ethola isaziso esibalwe kwisigatshana (1), uNgqongqoshe kufanele esule lokho kubhaliswa.

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Irekhodi lokubhalisa likazwelonke

23. (1) UNgqongqoshe kufanele asungule bese egcina irejista ngefomu elimisiwe labo bonke abantu ababhaliswe ngaphansi kwalo Mthetho noma ngokwemithetho yezifundazwe efanele, kufaka nalabo ukubhaliswa kwabo osekudluliselwe kwabanye, kuguquliwe noma kwesuliwe.

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(2) UNgqongqoshe kufanele—

- (a) avumele noma ngubani ukuhlola irejista elisungulwe ngokwesigatshana (1), ngamahora okusebenza ajwayelekile, futhi emva kokukhokha imali emisiwe;
- (b) akhiphe irejista kwisi webhusayithi
- (c) ahlinzeke ikhophi ecindezelwe yerejista, noma okucashunwe kuyona noma ingasiphi isikhathi kumuntu ocelile, lapho esekhokhe imali emisiwe.

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(3) Noma ngubani—

- (a) angahlola ikhophi yesitifiketi sokubhaliswa esikhishwe ngokwalo Mthetho; futhi
- (b) angayithola ikhophi yaso, lapho esekhokhe imali emisiwe.

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Ukubuyekeza noma ukufaka isikhalo ngesinqumo sikaNgqongqoshe

24. (1) Isinqumo sikaNgqongqoshe ngokwalesi Sahluko singabuyekwezwa noma kufakwe isikhalo maqondana naso kuye nalokho okuhlinzekelwe, futhi kuhambisane noMthetho wokuThuthukisa ubuLungiswa kwezokuPhatha, ka-2000 (uMthetho No. 3 ka-2000) (*Promotion of Administrative Justice Act*).

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(2) Ngaphezu kwezinye izimo zokulungisa ezingahlinzekwa yiNkantolo ezobe ibuyekeza isinqumo sikaNgqongqoshe ngokwalesi sahluko, inkantolo ingenza umyalo ibeke eceleni noma yimuphi umbandela ohambisana nokubhalisa, uma iNkantolo inganelisekanga ngokufaneleka kwalowo mbandela, isibhekile izinjongo nezinhloso zalo Mthetho, izimo zesicelo noma zokubuyekeza, kuye nesimo, kanye nemibandela yesigaba 13.

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ISAHLUKO 4**UKUTHOBELA UMTHETHO****Ukuqokwa kwabahloli**

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25. (1) UNgqongqoshe—

- (a) angaqoka noma ngubani abe ngumhloli, amnike amandla abanzi noma aqondene nokuthize ngqo maqondana nalo Mthetho; futhi
- (b) kufanele anike umhloli ngamunye isitifiketi ngesimo esifanele esisho ukuthi lowo muntu uqokwe njengomhloli.

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(2) Isitifiketi esisasebenza esikhishwe ngokwesigatshana (1)(b) siwubufakazi obanele bamandla omhloli ekubhalwe igama lakhe kusona.

(3) When exercising powers in terms of this Act, an inspector is a peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and may exercise the powers conferred on a peace officer by law.

Functions of inspectors

- 26.** (1) An inspector may— 5
- (a) investigate complaints submitted to the inspector in the prescribed manner and form; and
 - (b) subject to this Act or any other 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 sections 28(3) and 30 (3) and (5), and the provisions of any other law, an inspector may—
- (a) question any person whom the inspector believes may have information relevant to an inspection; 15
 - (b) question any person present on any premises being inspected, in respect of any matter which may be relevant to the inspection;
 - (c) inspect any document that— 20
 - (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 paragraph (c), or if necessary, remove the document in order to copy it;
 - (e) take samples of any substance that is relevant to the inspection; 25
 - (f) seize— 30
 - (i) any liquor that appears to have been manufactured contrary to section 4(2);
 - (ii) any liquor, if it appears that the liquor is being distributed contrary to section 4(2);
 - (iii) any methylated spirits that appears to have been manufactured or sold contrary to this Act; or
 - (iv) any substance that appears to be prohibited in terms of section 6.
 - (g) 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 premises; and 35
 - (h) do all things necessary for conducting the inspection.
- (3) An inspector who—
- (a) seizes any goods in terms of subsection (2)(f), must— 40
 - (i) issue a receipt for the goods to the owner of or person in control of the premises; and
 - (ii) secure the seized goods, pending a decision concerning forfeiture of those goods in terms of section 35(2); or
 - (b) removes anything from premises being inspected, must— 45
 - (i) issue a receipt for it to the owner of or person in control of the premises; and
 - (ii) unless it is a substance 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. 50

Entry of premises with warrant

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

(3) Lapho esebenzisa amandla akhe ngokwalo Mthetho, umhloli ungumsebenzi obhekele ukuthula njengalokho kuchazwe kwisigaba 1 soMthetho weNqubo kwezobeLelesi, ka-1977 (uMthetho No. 51 ka-1977) (*Criminal Procedure Act*), futhi angasebenzisa amandla akhe ethweswe umsebenzi obhekele ukuthula ngumthetho.

Imisebenzi yabahloli

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26. (1) Umhloli—

- (a) angaphenya ngezikhalo ezethulwe kumhloli ngendlela nangefomu emisiwe; futhi
- (b) kungathi ngokuncika kulo Mthetho noma yimuphi omunye umthetho ogunyaza umhloli ukuba enze uphenyo— 10
 - (i) aqaphe bese eqinisekisa ukuthi ulo Mthetho, noma lowo mthetho awusebenzisile uyalandelwa;
 - (ii) enze uphenyo ngaphansi kwalo Mthetho noma lowo mthetho awusebenzisile.
- (2) Kuncike kwizigaba 28(3) kanye no-30(3) no-(5), kanye nemibandela yanoma yimuphi omunye umthetho, umhloli— 15
 - (a) angafaka imibuzo kunoma yimuphi umuntu umhloli akholwa wukuthi angaba nolwazi oluphethelene nophenyo;
 - (b) angafaka imibuzo kunoma yimuphi umuntu osuke esemagcekeni ahlolwayo, maqondana nanoma yiluphi udaba olugahle luhambisane nophenyo; 20
 - (c) angahlola noma yimuphi umbhalo—
 - (i) ekufanele ukuba umuntu abe nawo ngokwalo Mthetho noma ngokomunye umthetho ofanele; noma
 - (ii) ongahle uhambisane nanoma yiluphi uphenyo oluqondene notshwala;
 - (d) angenza ikhophi yanoma yimuphi umbhalo ekukhulunywe ngawo kwindima (c), noma uma kunesidingo, awuthathe lowo mbhalo ukuze enze ikhophi yawo; 25
 - (e) angathatha amasampula anoma yini ehambisana nophenyo;
 - (f) angabamba—
 - (i) noma yibuphi utshwala obubonakala sengathi obakhiwe ngendlela ephikisana nesigaba 4(2); 30
 - (ii) noma yibuphi utshwala, uma kubonakala sengathi lobo tshwala babiwa ngendlela ephikisana nesigaba 4(2);
 - (iii) noma yisiphi isipilithi esingakulungele ukuphuzwa ekubonakala sengathi sikhizwe noma sithengiswa ngendlela ephikisana nalo Mthetho; noma 35
 - (iv) yini enye ebonakala sengathi ayivunyelwe ngokwesigaba 6.
 - (g) kungathi maqondana nenjongo yophenyo, athathe izithombe noma aqophe ngomshini wevidiyo yanoma yini noma ngubani, inqubo, isenzo noma isimo esithintekayo ophenyweni emagcekeni athize noma maqondana namagceke athize; futhi 40
 - (h) angenza zonke izinto ezidingekayo ukuze enze uphenyo.
- (3) Umhloli—
 - (a) othatha noma yiziphi izimpahla ngokwesigatshana (2)f), kufanele—
 - (i) akhiphe ilesidi lezimpahla alinike umnikazi noma umuntu ophethe amagceke; futhi 45
 - (ii) agcine ngokuphepha izimpahla ezithathiwe, kusamelwe isinqumo maqondana nokudliwa kwalezo zimpahla ngokwesigaba 35(2); noma
 - (b) asuse noma yini emagcekeni ahlolwayo, kufanele—
 - (i) akhiphe ilesidi alinike umnikazi noma umuntu ophethe amagceke; futhi 50
 - (ii) ngaphandle uma kuyinto ekukhulunywe ngayo kwisigatshana (2)(e), ayibuyise ngokushesha emva kokufeza inhloso eyayithathelwe yona.
- (4) Umhloli angaphelekezelwa yilungu lamaPhoyisa aseNingizimu Afrika noma omunye umuntu ngesikhathi sophenyo osuke edingeka ngokubonakalayo ukuba asize ekwenzeni uphenyo. 55

Ukungena emagcekeni ngewaranti

27. (1) Umhloli angangena kunoma imaphi amagceke uma imantshi ikhiphe iwaranti yokwenza lokho maqondana nesigatshana (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) this Act is not being complied with; and
- (b) the entry and inspection are necessary, in the interest of the public, to obtain information—
 - (i) that is related to the alleged failure to comply with this Act; and
 - (ii) that cannot be obtained without entering those premises.

(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 26.

(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, 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

28. (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—
 - (i) no more than six times during a 12-month period; or
 - (ii) more frequently if permitted by any other law for the purposes of an inspection.

(2) In addition to the entry permitted in terms of subsection (1), an inspector may enter any land or premises without a warrant—

- (a) if authorised to do so by any other law; or
- (b) in respect of which there is an outstanding compliance notice issued in terms of section 31, 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

29. (1) An inspector executing a warrant in terms of section 27 may overcome any

- (2) Imantshi ingakhipha iwaranti yokungena bese kuphenywa noma yimaphi amagceke, kuncike olwazini elunikwe ngokulotshiweyo noma ngaphansi kwesifungo, imantshi esuke inesizathu sokukholwa ukuthi—
- (a) lo Mthetho awuthotshelwa; futhi
 - (b) ukungena nokuphenya kudingekile, ukubhekela izidingo zomphakathi, ukuze kutholwe ulwazi—
 - (i) oluphathelele nokwehluleka ukuthobela lo Mthetho shiwoyo; futhi
 - (ii) olungeke lutholakale ngaphandle kokungena kulawo magceke.
- (3) Iwaranti ngokwesigatshana (2) ingakhishwa noma ingasiphi isikhathi futhi kufanele ikubeke kucace ukuthi—
- (a) yimaphi amagceke ekufanele kungenwe kuwona bese ehlolwa; futhi
 - (b) inika umhloli amandla okungena ahlole amagceke nokwenza noma yini kukhulunywe ngayo kwisigaba 26.
- (4) Iwaranti ngokwesigaba (2) isebenza kuze kube—
- (a) isisetshenzisiwe;
 - (b) yesulwe yimantshi eyikhiphile, uma ingekho leyo mantshi, kube wumuntu onamandla afanayo;
 - (c) inhloso eyayikhishelwe yona ayisekho; noma
 - (d) sekudlule izinsuku ezingama-90 kusukela osukwini eyakhishwa ngalo.
- (5) Ngaphambi kokuqala uphenyo ngamandla ewaranti, umhloli kufanele—
- (a) uma umnikazi wamagceke noma umuntu ophethe ekhona—
 - (i) achaze ukuthi ungubani kulowo mnikazi noma umuntu ophethe amagceke, bese echazela lowo muntu amandla uphenyo olwenziwa ngaphansi kwawo, bese ekhombisa lowo muntu isitifiketi somhloli sokuqokwa; futhi
 - (ii) anike lowo muntu noma umuntu ogama lakhe lifakwe kuyo, ikhophi yewaranti; noma
 - (b) afake ikhophi yewaranti endaweni esobala noma ebonakalayo emagcekeni uma—
 - (i) umnikazi engekho futhi kungenamuntu ophethe emagcekeni; noma
 - (ii) umnikazi wamagceke noma umuntu ophethe enqaba ukwamukela ikhophi.

Ukungena emagcekeni ngaphandle kwewaranti

28. (1) Umhloli ongenawaranti—
- (a) angangena bese ehlola amagceke ngemvume yomnikazi noma umuntu ophethe indawo noma lawo magceke; noma
 - (b) njalo ngezikhathi thize, angene bese ehlola noma imaphi amagceke abhalisiwe—
 - (i) kungevi eikhathini eziyisithupha esikhathini esiyizinyanga eziyi-12; noma
 - (ii) kube kaningana uma evunyelwe ngomunye umthetho ukuze kufezwe inhloso yophenyo.
- (2) Ngaphezu kokungena okuvunywe ngokwesigatshana (1), umhloli angangena kunoma iyiphi indawo noma amagceke ngaphandle kwewaranti—
- (a) uma evunyelwa ukwenza lokho ngomunye umthetho;
 - (b) maqondana nesaziso sokuthobela umthetho esikhishwe ngokwesigaba 31, ngesizathu sokuthola ukuthi leso saziso sithotshelwe noma cha.
- (3) Ngaphambi kokuqala uphenyo kunoma iyiphi indawo noma amagceke ngokwalesi sigaba, umhloli kufanele—
- (a) achaze ukuthi ungubani kumnikazi wamagceke noma kumuntu ophethe lapho;
 - (b) achazele lowo muntu amandla uphenyo olwenziwa ngaphansi kwawo;
 - (c) abonise lowo muntu isitifiketi somhloli sokuqokwa.
- (4) Ukungena kanye nokuphenya ngaphandle kwewaranti kungenziwa ngamahora okusebenza kuphela.

Ukungena ngendluzula

29. (1) Umhloli osebenzisa iwaranti ngokwesigaba 27 angadlula kunoma iyiphi inhlobo yento yokumvimbela ukungena noma ukwenza uphenyo ngokusebenzisa

resistance to entry or inspection by using the force that is reasonably required, including breaking a lock, door or window of the land or premises to be entered.

(2) Before using force, the person executing the warrant must audibly demand admission and announce his or her purpose, unless there is reason to believe that doing so may induce someone to destroy, dispose of or tamper with any object or document that is the object of the inspection. 5

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

(4) Subject to any other law or except in the case of an emergency, force may not be used to effect an entry or conduct an inspection in terms of section 28. 10

Duty to produce documents, answer questions and assist inspector

30. (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. 15

(3) Before questioning a person in terms of this Chapter, an inspector must inform that person of his or her applicable constitutional rights.

(4) 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. 20

(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. 25

Compliance notices

31. (1) If an inspector believes that any 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— 30

- (a) the registrant; or
- (b) the owner of the registered premises or 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; 35
- (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 that may be imposed in terms of this Act if those steps are not taken. 40

(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. 45

Objection to compliance notice

32. (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. 50

indluzula ngokudingekile, kufaka ukwephula ukhiye, umnyango noma ifasitela lendawo noma lamagceke ekungenwa kuwo.

(2) Ngaphambi kokusebenzisa indluzula, umuntu osebenzisa iwaranti kufanele asho azwakale ukuthi ufuna ukungena bese esho nenhloso yakhe, ngaphandle uma kunesizathu esimenza akholwe ukuthi ukwenza kanjalo kungaholela ekutheni kube nomuntu ocekela phansi, olahla noma ophazamisa noma yini noma yimuphi umbhalo oyinhloso yophenyo. 5

(3) UNgqongqoshe kufanele anxephezele noma ngubani olimalayo ngenxa yokungena ngendluzula ngesikhathi sophenyo uma kwakungekho muntu ophethe emagcekeni. 10

(4) Kuncike kunoma imuphi omunye umthetho noma ngaphandle kwezimo eziphuthumayo, akunakusetshenziswa indluzula ukungena noma ukwenza uphenyo ngokwesigaba 28.

Umsebenzi wokuveza izincwadi, ukuphendula imibuzo nokusiza umhloli

30. (1) Noma ngubani ophethe izincwadi othintekayo ophenyweni kufanele ayiveze leyo ncwadi lapho ecela umhloli. 15

(2) Umnikazi noma oqashe endaweni noma emagcekeni thize kufanele ahlinzeke noma yini edingekayo kanye nosizo olucelwa ngumhloli ngokufanelekile ukuze enze uphenyo kahle.

(3) Ngaphambi kokufaka umuntu imibuzo ngokwalesi Sahluko, umhloli kufanele amazise lowo muntu ngamalungelo akhe ngokoMthethosisekelo. 20

(4) Umuntu ofakwa imibuzo ngumhloli ngokwalesi Sahluko kufanele aphenule yonke imibuzo ngeqiniso futhi ngokusemandleni akhe wonke.

(5) Impendulo noma incazelo enikezwe umhloli ayinakusetshenziswa noma ifakwe kwinqubo yecala lobeleseli elibhekene nomuntu oyinikezile, ngaphandle uma kunecala elibhekene nalowo muntu eliphathelene— 25

(a) nezokuphatha noma ukuthatha isifungo;

(b) ukusho isitatimende esingamanga; noma

(c) ukwehluleka ukuphendula umbuzo womthetho ngokuphelele nango- kugculisayo. 30

Izaziso zokuthobela umthetho

31. (1) Uma umhloli ekholwa wukuthi noma imuphi umbandela walo Mthetho noma umbandela wokubhalisa awuzange uthotshelwe, umhloli angakhipha izaziso sokuthobela umthetho ngefomu efanele asithumele—

(a) kobhalisiwe; noma 35

(b) kumnikazi wamagceke abhalisiwe noma kumuntu ophethe amagceke abhalisiwe.

(2) Isaziso sokuthobela umthetho okukhulunywa ngaso kwisigatshana (1) kumele sibeke kucace—

(a) umbandela ongathotshelwanga; 40

(b) imininingwane yesimo nobungako bokungathobeli umthetho;

(c) noma yiziphi izinyathelo ekufanele zithathwe kanye nesikhathi esihlinzekelwe ukuba kuthathwe lezo zinyathelo; kanye

(d) nanoma yisiphi isizeziso esingase sibekwe ngokwalo Mthetho uma zingathathwa lezo zinyathelo. 45

(3) Isaziso sokuthobela umthetho okukhulunywa ngaso kwisigatshana (1) sisebenza kuze kube yisikhathi lapho umhloli ekhipha isitifiketi sokuthobela umthetho kukhulunywa ngaso kwisigatshana (4) maqondana naleso saziso.

(4) Uma izidingo zesaziso sokuthobela umthetho zanelisiwe, umhloli kufanele akhiphe isitifiketi sokuthobela umthetho. 50

Ukuphikisa izaziso sokuthobela umthetho

32. (1) Noma ngubani onikwe izaziso sokuthobela umthetho angasiphikisa ngokufaka isikhalo kuNgqongqoshe kungakapheli—

(a) izinsuku ezingama-21 ethole leso saziso; noma

(b) isikhathi esijana esingabe sivunywe nguNgqongqoshe lapho eboniswa izizathu eziqotho. 55

(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 notice made in terms of subsection (2) on the objector and, if the objector is not a person registered in terms of this Act, any registered person affected by the notice. 5

(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.

Review or appeal of Minister's decisions

33. A decision of the Minister in terms of section 32 is subject to review or appeal to the extent provided for, and in accordance with, the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). 10

CHAPTER 5

OFFENCES AND PENALTIES

Offences 15

34. (1) It is an offence to—
- (a) contravene or fail to comply with section 4(2), 5(1), 6, 7, 8, 9 or 10, or subsection (2); or
 - (b) fail to comply with any condition of registration imposed under this Act. 20
- (2) A person must not—
- (a) refuse to grant an inspector access to premises to which the inspector is 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; 25
 - (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; 30
 - (f) pretend to be—
 - (i) a registrant; or
 - (ii) an inspector;
 - (g) falsify, or without authorisation, alter—
 - (i) a registration certificate issued in terms of section 14(1); or 35
 - (ii) an authorisation of a warrant, compliance notice or compliance certificate contemplated in Chapter 4;
 - (h) fail to comply with a compliance notice issued in terms of Chapter 4;
 - (i) enter any premises without a warrant in circumstances requiring a warrant;
 - (j) act contrary to a warrant issued in terms of Chapter 4; 40
 - (k) without authority enter or inspect premises; or
 - (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; 45
 - (ii) if the disclosure is ordered by a competent court; or
 - (iii) if the disclosure is in compliance with the provisions of any law.

(2) Emva kokucubungula noma yiziphi izikhalo ezifakwe ngabantu abaphikisayo kanye nanoma yiluphi olunye ulwazi, uNgqongqoshe angaqinisa, alungise noma achithe noma yisiphi isaziso sokuthobela umthetho noma iyiphi ingxenye yesaziso esinjalo.

(3) UNgqongqoshe kufanele anike ophikisayo ikhophi yesaziso esenziwe ngokwesigatshana (2) bese, uma ophikisayo nkungeyena umuntu obhalisiwe ngokwalo Mthetho, anikeze nanoma yimuphi umuntu obhalisiwe othintwa yileso saziso. 5

(4) Uma uNgqongqoshe eqinisa noma elungisa isaziso noma iyiphi ingxenye yesaziso, ophikisayo kufanele athobele leso saziso, singakapheli isikhathi esimiswe kuleso saziso.

Ukubuyekwezwa noma ukufaka isikhalo ngezinqumo zikaNgqongqoshe 10

33. Isinqumo sikaNgqongqoshe ngokwesigaba 32 singabuyekwezwa noma kudluliswe isikhalo ngaso kuye nalokho okuvunyiwe, futhi kuhambisane noMthetho woku-Thuthukisa ubuLungiswa kwezokuPhatha, ka-2000 (uMthetho No. 3 ka-2000).

ISIAHLUKO 5

AMACALA NEZIJEZISO 15

Amacala

34. (1) Kuyicala—

- (a) ukwephula noma ukuhluleka ukuthobela noma imuphi umbandela walo Mthetho isigaba 4(2), 5(1), 6, 7, 8, 9, noma (10), noma isigatshana (2); noma
- (b) ukwehluleka ukuthobela noma imuphi umbandela wokubhaliswa omiswe ngaphansi kwalo Mthetho. 20

(2) Umuntu akufanele—

- (a) enqabe ukuvumela umhloli ukuthi angene ahlole amageceke lapho umhloli enikwe invume yokungena khona;
- (b) avimbele, aphazamise noma alibazise umhloli osebenzisa amandla noma owenza umsebenzi ngokwalo Mthetho; 25
- (c) enqabe ukunika umhloli umbhalo noma ulwazi lowo muntu ekudingeka ukuba aluhlinzeke ngokwalo Mthetho;
- (d) anike umhloli ulwazi olungamanga noma olwedusayo;
- (e) ngokungekho emthethweni, avimbe umnikazi wamageceke, noma umuntu osebenzela lowo mnikazi, ekungeneni emagecekeni ukuze athobele izidingo zalo Mthetho; 30
- (f) ashaye sengathi—
 - (i) ungobhalisiwe; noma
 - (ii) ungumhloli; 35
- (g) enze kube ngamanga, noma ngaphandle kwemvume, aguqule—
 - (i) isitifiketi sokubhaliswa esikhishwe ngokwesigaba 14(1); noma
 - (ii) invume yewaranti, isaziso sokuthobela umthetho noma isitifiketi sokuthobela umthetho okukhulunywe ngazo kwiSahluko 4;
- (h) ehluleke ukuthobela isaziso sokuthobela umthetho esikhishwe ngokwe-Sahluko 4; 40
- (i) angene emagecekeni ngaphandle kwewaranti ezimweni ezidinga iwaranti;
- (j) enze okuphambene newaranti ekhishwe ngokweSahluko 4;
- (k) ngaphandle kwemvume, angene noma ahlole amageceke; noma
- (l) akhiphe ulwazi oluphathelele nezindaba zezimali noma zebhizinisi zanoma ngubani ezatholwa ngesikhathi kusetshenziswa amandla noma kwenziwa umsebenzi ngokwalo Mthetho, ngaphandle— 45
 - (i) uma kukumuntu odinga lolo lwazi ukuze asebenzise amandla noma enze umsebenzi ngokwalo Mthetho;
 - (ii) uma ukukhipha ulwazi kufunwe yinkantolo efanelekile; noma 50
 - (iii) uma ukukhipha ulwazi kuhambisana nemibandela yanoma yimuphi umthetho.

Penalties and forfeiture

35. (1) Any person who contravenes or fails to comply with a provision of—
- (a) section 4(2), 5(1), 6, 8 or 10, is liable on conviction to a fine not exceeding R1 000 000, or to imprisonment for a period not exceeding five years; or
 - (b) section 7, 9 or 34, is liable on conviction to a fine not exceeding R500 000, or to imprisonment for a period not exceeding one year. 5
- (2) In addition to imposing a penalty in terms of subsection (1), a court that has convicted a person of an offence—
- (a) in terms of section 4(2), must order the forfeiture to the State of any liquor manufactured or distributed by that person contrary to section 4(2), and seized in terms of section 26(2)(f); 10
 - (b) in terms of section 5, must order the forfeiture to the State of any methylated spirits manufactured or sold by that person contrary to this Act, and seized in terms of section 26(2)(f); or
 - (c) in terms of section 6, must order the destruction of any substance that is prohibited in terms of section 6, and that was in the possession of that person, and seized in terms of section 26(2)(f). 15
- (3) The Minister must order that any liquor that is forfeited to the State in terms of this section must be—
- (a) destroyed at the cost of the person from whom it was seized; or 20
 - (b) sold to a registered person, in accordance with any law regulating disposal of forfeited goods.

Imputation of criminal liability

36. (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 person, 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— 25
- (a) either connived at or permitted the act or omission by the manager, agent or employee concerned; or 30
 - (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.

CHAPTER 6

35

NATIONAL LIQUOR POLICY COUNCIL

Establishment of Council

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

Composition of Council

38. (1) The Council consists of— 40
- (a) the Minister;
 - (b) for each province, the Member of the Executive Council responsible for liquor licensing in that province;
 - (c) the Director-General, or other employee of the department designated by the Director-General; and 45
 - (d) for each province, one person designated—
 - (i) in terms of applicable provincial legislation; or
 - (ii) by the Member of the Executive Council responsible for liquor licensing in that province.
- (2) The Minister chairs the Council. 50

Izizeziso nokudliwa

35. (1) Noma ngubani owephula noma owehluleka ukuthobela umbandela—
- (a) wesigaba 4(2), 5(1), 6, 8 noma 10, kufanele lapho elahlwa yicala akhokhe inhlawulo engevile kwi-R1 000 000, noma aboshwe isikhathi esingevile eminyakeni emihlanu; noma 5
 - (b) wesigaba 7, 9 noma 34, kufanele lapho elahlwa yicala akhokhe inhlawulo engevile kwi-R500 000, noma aboshwe isikhathi esingevile onyakeni owodwa.
- (2) Ngaphezu kokujeziswa ngokwesigatshana (1), inkantolo elahle umuntu ngecala—
- (a) ngokwesigaba 4(2), kufanele ikhiphe umyalo wokuthi uMbuso udle bonke utshwala obukhiqizwe noma obuphakwe yilowo muntu ngokuphambene nesigaba 4(2), bese buthathwa ngokwesigaba 26(2)(f); 10
 - (b) ngokwesigaba 5, kufanele ikhiphe umyalo wokuthi uMbuso udle noma yisiphi isipilithi esingakulungele ukuphuzwa esikhiqizwe noma esithengiswe yilowo muntu ngokuphambene nalo Mthetho, bese kuthathwa ngokwesigaba 26(2)(f). 15
 - (c) ngokwesigaba 6, kufanele akhiphe umyalo wokuchithwa kwaleyo nto engavumelekile ngokwesigaba 6, ibe kade iphethwe yilowo muntu, futhi idliwe ngokwesigaba 26(2)(f).
- (3) UNgqongqoshe kufanele akhiphe umyalo wokuthi noma yibuphi utshwala obudliwe nguMbuso ngokwalesi sigaba— 20
- (a) kufanele buchithwe izindleko zikhokhwe wumuntu ebuthathwe kuyena; noma
 - (b) kufanele buthengiselwe umuntu obhalisiwe, kuhambisane nanoma yimuphi umthetho owengamele ukuchithwa kwezimpahla ezidliwe. 25

Ukubuyisela icala kubantu ababhalisiwe

36. (1) Uma imenenja, umenzeli noma umsebenzi womuntu enza icala ngokwenza noma ngokungenzi okuthize kanti lokho kwenza noma ukungenzi bekuyoba yicala ukuba bekwenziwe ngumuntu, lowo muntu unecala ngokulinganayo uma isenzo noma ukungenzi kungena ngaphansi kwamandla noma komsebenzi ophethwe yimenenja, umenzeli noma umsebenzi lowo futhi umuntu— 30
- (a) ezibe noma evumele leso senzo noma ukungenzi kwemenenja, umenzeli noma umsebenzi othintekayo; noma
 - (b) engazange athathe zonke izinyathelo ezifanele ukuvimbela leso senzo noma ukungenzi. 35
- (2) Ukuze kusebenze isigatshana (1), udaba lokuthi umuntu ukhiphe imiyalo evimbela isenzo noma ukungenzi akubona ubufakazi obanele kukodwa ukuthi kwathathwa zonke izinyathelo ukuvimbela isenzo noma ukungenzi.

ISIAHLUKO 6**UMKHANDLU WOMGOMO WOTSHWALA KAZWELONKE**

40

Ukusungulwa koMkhandlu

37. Lapha kusungulwa uMkhandlu woMgomo woTshwala kaZwelonke.

Amalungu oMkhandlu

38. (1) Umkhandlu uqukethe—
- (a) uNgqongqoshe; 45
 - (b) esifundazweni ngasinye, iLungu loMkhandlu oMkhulu elibhekene nokunikeza amalayisense otshwala kuleso sifundazwe;
 - (c) uMqondisi-Jikelele, noma omunye umsebenzi womnyango oqokwe ngu-Mqondisi-Jikelele; kanye
 - (d) nomuntu oyedwa, esifundazweni ngasinye oqokwe— 50
 - (i) ngokulandela umthetho wesifundazwe ofanele;
 - (ii) yiLungu loMkhandlu oMkhulu elibhekene nokunikeza amalayisense kuleso sifundazwe.
- (2) UNgqongqoshe uba ngumphathisihlalo woMkhandlu.

(3) The members contemplated in subsection (1)(c) and (d) have no vote on the Council.

Functions of Council

39. (1) The Council is a forum for intergovernmental co-operation contemplated in section 41(1)(h) of the Constitution. 5

(2) The functions of the 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 10 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 15 industry in the Republic, or licensing in any province;
 - (vi) 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 20 industry.

Proceedings

40. (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 25 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 30 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— 35

- (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.

CHAPTER 7

40

REGULATIONS AND NOTICES

Public health considerations

41. 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— 45

- (a) registered premises; and
- (b) premises licensed or registered by a provincial authority to sell or micro-manufacture liquor.

(3) Amalungu Ekukhulunywa ngawo kwisigatshana (1)(c) no (d) awanavoti eMkhandlwini.

Imisebenzi yoMkhandlu

39. (1) Umkhandlu uyiforamu yokusebenzisana kwemikhakha eyahlukene kahulumeni okukhulunywe ngako kwisigaba 41(1)(h) soMthethosisekelo. 5

(2) Imisebenzi yoMkhandlu yilena—

(a) ukubonisana—

- (i) ngezinkambiso namazinga kazwelonke embonini yotshwala;
- (ii) ngomgomo kazwelonke maqondana nembali yotshwala;
- (iii) ngemithetho noma imithethonqubo yotshwala, kufaka nokukhuthaza ukwefana kwimithetho kazwelonke neyezifundazwe maqondana nezinkambiso namazinga ngotshwala; 10
- (iv) nganoma yiluphi udaba oluphathelele nembali yotshwala ngaphakathi kwemikhakha kahulumeni kazwelonke nohulumeni bezifundazwe;
- (v) nganoma yiluphi udaba oluqondene nokuphathwa noma ukuqapha imboni yotshwala kwiRiphabhliki, noma ukunikeza amalayisense kunoma yisiphi isifundazwe; 15
- (vi) nganoma yiluphi olunye udaba olungahle ludluliselwe kuwona yilungu loMkhandlu;

(b) ukukhuthaza nokwenza lula ubudlelwane phakathi kwemikhakha kahulumeni eyehlukene maqondana nembali yotshwala; kanye 20

(c) nokwenza lula ukuxazululwa kwemibango phakathi kwemikhakha kahulumeni eyehlukene mayelana nembali yotshwala.

Inqubo

40. (1) UNgqongqoshe angabiza umhlangano woMkhandlu noma nini, kepha kufanele abize okungenani imihlangano emibili ngonyaka wezimali ngamunye. 25

(2) Ungqongqoshe angakhetha noma yimuphi umhlangano woMkhandlu ukuthi ube ngumhlangano wawo wonke amalungu, noma ube ngowamalungu anevoti kuphela.

(3) Ilungu elingenavoti lingaqoka omunye umuntu ongalimela emhlanganweni woMkhandlu kwisiphathimandla salo esifanele. 30

(4) UMkhandlu ungamema abantu abangewona amalungu ukuthi bazokwethamela imihlangano yoMkhandlu.

(5) Njengomgwamanda lapho imikhakha kahulumeni kazwelonke nohulumeni bezifundazwe befuna ukusebenzisana kuwona ngokwethembana nangokufuna imiphumela emihle, uMkhandlu kufanele uzame ukuthatha izinqumo ngokuvumelana. 35

(6) Uma uMkhandlu wehluleka ukuvumelana ngesinqumo, ungakhetha ukuxazulula udaba ngokusivotela isiphakamiso.

(7) Isiphakamiso esenziwe ngokwesigatshana (6) siphumelela kuphela uma sisekelwe—

(a) uNgqongqoshe; kanye 40

(b) namanye amalungu oMkhandlu amahlanu okungenani.

(8) Kuncike kwisigatshana (1) no (7), uMkhandlu ungenza bese wamukela imitheshwana yawo yokubamba imihlangano yawo.

ISIAHLUKO 7

IMITHETHONQUBO NEZAZISO

45

Ukucabangela impilo yomphakathi

41. UNgqongqoshe, ngokubonisana nelungu leKhabhinethi elibhekene nezempilo, angamisa indikimba, kanye nendlela ekufanele, izaziso zezempilo zomphakathi zibekwe ngayo—

(a) emagecekeni abhalisiwe; kanye 50

(b) nasemagecekeni anelayisense noma abhalisiwe yisiphathimandla sesifundazwe ukuthi athengisele umphakathi noma akhiqize utshwala kancane.

Power to issue regulations and notices

- 42.** (1) In respect of any matter affecting the retail sale or micro-manufacture of liquor, the Minister, after 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; and 5
 - (b) the information to be furnished to the Minister regarding the operation of the liquor industry by—
 - (i) a registered person; and
 - (ii) the holder of an import certificate in terms of section 16 of the Liquor Products Act, 1989 (Act No. 60 of 1989). 10
- (2) The Minister may, by notice in the *Gazette*—
- (a) make regulations in the manner contemplated in section (1)—
 - (i) declaring any substance or fermented drink to be beer, liquor, traditional African beer or an imposable substance; or 15
 - (ii) declaring any denatured, medicated, perfumed or otherwise treated spirits to be methylated spirits; and
 - (b) make any other regulations—
 - (i) required or permitted in terms of this Act; or
 - (ii) necessary or expedient to prescribe in order to achieve the objects of this Act. 20

Procedure when issuing regulations

- 43.** (1) Before the Minister may promulgate a regulation contemplated in section 42 that materially and adversely affects any person, the Minister 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 *Gazette* and invite comment from the public; and
 - (c) consider any comment received and any recommendations made by the Council. 30
- (2) If any regulation, other than one contemplated in section 42(1), affects a province, that regulation must be tabled with the Council for its consideration.
- (3) A decision of the Minister in terms of this Chapter is subject to review or appeal to the extent provided for, and in accordance with, the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). 35

CHAPTER 8**GENERAL PROVISIONS****Limitation of liability**

- 44.** Subject to section 29(3), 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. 40

Delegation of power

- 45.** (1) The Minister may delegate all or part of any power of the Minister in terms of this Act, 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. 45

Amandla okukhipha umthethonqubo kanye nezaziso

42. (1) Maqondana nanoma yiluphi udaba oluthinta ukuthengiswa noma ukukhiqizwa kancane kotshwala, uNgqongqoshe, emva kokubonisana noMkhandlu, angenza imithethonqubo ukuze asungule inkambiso namazinga afanayo embonini yotshwala maqondana—

- (a) nesimo kanye nobunjalo bolwazi lwezibalo ekufanele iziphathimandla zezifundazwe zilulethe kuNgqongqoshe; kanye
 - (b) nolwazi okufanele lulethe kuNgqongqoshe maqondana nokusebenza kwemboni yotshwala njengalokho kwenziwa—
 - (i) ngumuntu obhalisiwe; kanye
 - (ii) nomuntu ophethe isitifiketi sokuthola utshwala kwamanye amazwe ngokwesigaba 16 soMthetho wemiKhiqizo yoTshwala, ka-1989 (uMthetho No. 60 ka-1989).
- (2) UNgqongqoshe, ngokufaka isaziso kwi*Gazethi*—
- (a) angenza imithethonqubo ngendlela ebalulwe kwisigaba (1)—
 - (i) ememezela noma yini noma yisiphi isiphuzo esibilisiwe ukuthi kuwubhiya, utshwala, utshwala besiNtu noma yinto eyingozi empilweni yabantu; noma
 - (ii) ememezela noma yini efakwe into eyingozi empilweni yabantu, ethakwe nemithi, efakwe iphunga noma isipilithi esingakulungele ukuphuzwa esilungiswe ngenye indlela ukuthi kuyisipiliti esiwubuthi; futhi
 - (b) angenza eminye imithethonqubo—
 - (i) edingekayo noma evunywe ngokwalo Mthetho; noma
 - (ii) edingekayo noma ekufanele imiswe ukuze kufezwe izinjongo zalo Mthetho.

Inqubo yokulshipha imithethonqubo

43. (1) Ngaphambi kokuba uNgqongqoshe amemezele umthethonqubo okukhulunywa ngawo kwisigaba 42 oguqula ngokubonakalayo futhi othinta kabi noma yimuphi umuntu, uNgqongqoshe kufanele—

- (a) athathe izinyathelo ezifanele ukwazisa noma ngubani ongase athintwe ngumthethonqubo noma isaziso kwi*Gazethi* ngokubonakalayo noma kabi abameme ukuba balethe izimvo zabo;
- (b) akhiphe umthethonqubo noma isaziso kwi*Gazethi* bese emema izimvo zomphakathi; futhi
- (c) acubungule zonke izimvo ezilethiwe kanye neziphakamiso ezenziwe ngu-Mkhandlu.

(2) Uma noma yimuphi umthethonqubo, ngaphandle kwalowo okukhulunywa ngawo kwisigaba 42(1), uthinta isifundazwe, lowo mthethonqubo kufanele ubekwe phambi koMkhandlu ukuze uwucubungule.

(3) Isinqumo sikaNgqongqoshe ngokwalesi Sahluko sincike ekubuyekezweni noma ekudlulisweni phambili kuye nobubanzi obuhlinzekelwe, futhi kuhambisane noMthetho wokuThuthukisa ubuLungiswa kwezokuPhatha, ka-2000 (uMthetho No. 3 ka-2000).

ISAPHLUKO 8**IMIBANDELA EJWAYELEKILE****Ukuzivikela ekwethwesweni amacala**

44. (1) Kuncike kwisigaba 29(3), uMbuso nanoma yiluphi uphiko lombuso noma umuntu osebenzisa amandla noma owenza umsebenzi ngokwalo Mthetho akana-kubekwa icala lokulahleka noma lokulimala okuba wumphumela wesenzo noma ukungenzi ebengazelele lapho esebenzisa amandla anjalo noma enza umsebenzi onjalo.

Ukudlulisa amandla okwesikhashana

45. (1) Ungqongqoshe angedlulisa wonke noma izingxenye zamandla kaNgqongqoshe ngokwalo Mthetho, ngale kwamandla okwenza imithethonqubo, awanike uMqondisi-Jikelele noma ngubani omunye umsebenzi womnyango kazwe-lonke obhekene nezindaba zotshwala oqokwe nguMqondisi-Jikelele.

Act No. 59, 2003**LIQUOR ACT, 2003**

(2) The Minister may delegate to a Member of the Executive Council all or part of the Minister's powers, discretion and responsibility under this Act, with respect to the registration of persons within a province as distributors of liquor.

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

5

Repeal of laws

46. Subject to Schedule 1, the laws mentioned in Schedule 2 are repealed to the extent indicated in the third column of that Schedule.

Short title and commencement

47. 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*.

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(2) UNgqongqoshe anganikeza iLungu loMkhandlu Omkhulu wonke noma ingxenye yamandla, ukwenza ngokuzibonela kanye nomthwalo okungaphansi kwalo Mthetho, maqondana nokubhaliswa kwabantu abasesifundazweni njengabaphaki botshwala.

(3) Noma ingasiphi isikhathi, uNgqongqoshe angawabuyisela emuva amandla awaphe omunye umuntu ngaphansi kwesigatshana (1) bese esebenzisa lawo mandla ngqo. 5

Ukuchithwa kwemithetho

46. Kuncike kwiSheduli 1, imithetho ebalulwe kwiSheduli 2 iyachithwa ngobubanzi obuvezwe ohlwini lwesithathu kuleyo Sheduli. 10

Isihloko esifushane kanye nosuku lokuqala ukusebenza

47. Lo Mthetho ubizwa ngokuthi uMthetho woTshwala, ka-2003, kanti uzoqala ukusebenza ngosuku oluyonqunywa nguMongameli ngokufaka isimemezelo kwi-Gazethi.

SCHEDULE 1**TRANSITIONAL PROVISIONS****Definitions**

1. For the purpose 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).

Transition from repealed laws to provincial legislation

2. (1) Despite section 46, in respect of each province, a provision of a law mentioned in Schedule 2 that concerns the micro-manufacture, retail sale or consumption of liquor or methylated spirits remains in force within that province until a date determined in accordance with subitems (2) and (3) and declared by notice in the *Gazette*.

(2) The Premier of a province, or the Member of the Executive Council responsible for liquor in the province, may notify the Minister that the government of that province wishes to consult with the Minister on the determination of a date contemplated in subitem (1), at any time after the legislature of that province has enacted legislation that—

- (a) is consistent with the objects and purposes of this Act;
- (b) provides for regulation of the micro-manufacture, retail sale and consumption of liquor, and methylated spirits within that province;
- (c) requires every person engaging in the micro-manufacture or retail sale of liquor or methylated spirits within that province to be registered, or to have a licence or permit, to perform any of those activities;
- (d) with respect to the registration or licensing of activities contemplated in paragraph (c)—
 - (i) provides for a reasonable procedure, having regard to the competing demands of simplicity, transparency and cost-effectiveness, for the application, evaluation and granting of registration, licences or permits required by that legislation; and
 - (ii) provides for the maintenance of a registry of any persons, firms and premises required to be registered or licensed in terms of that legislation, and the reporting of that information to the Minister;
- (e) establishes enforcement mechanisms to ensure proper monitoring and compliance by any persons registered or licensed in terms of that provincial legislation; and
- (f) provides reasonable transitional protection of the rights of existing licencees in terms of the laws repealed by section 46, to the extent that those licences involve the micro-manufacture, retail sale or consumption of liquor or methylated spirits.

(3) After receiving a notice in terms of subitem (2), the Minister must either—

- (a) in consultation with the appropriate Member of the Executive Council, determine a date contemplated in subitem (1) and declare that date by notice in the *Gazette*; or
- (b) if the Minister on reasonable grounds believes that the provincial legislation does not substantially meet the criteria required by subitem (2), notify the responsible Member of the Executive Council of that province to that effect, setting out the Minister’s reservations with respect to the provincial legislation.

(4) Until the date contemplated in subitem (1) with respect to any particular province, a reference in this Act to “applicable provincial legislation” must be regarded as being

ISHEDULI 1

IMIBANDELA YESIKHASHANA

Izincazelo

1. Ngokwezinhloso zale Sheduli—

“uMthetho woTshwala ka-1989” kusho uMthetho woTshwala ka-1989 (uMthetho No. 27 ka-1989); 5

“uMthetho wemiKhiqizo yoTshwala ka-1989” kusho uMthetho wemiKhiqizo yoTshwala ka-1989, (uMthetho No. 60 ka-1989).

Ukuguquka kusukwa emithethweni echithiwe kuyiwa kwisishayomthetho sezifundazwe 10

2. (1) Naphezu kokushiwo yisigaba 46, kuzifundazwe, umthetho okukhulunywa ngawo kuSheduli 2 ophathelene nemikhiqizo emincane, ukuthengisa ezitolo kanye nokuphuzwa kotshwala nesipilithi esingakulungele ukuphuzwa, uzokuhlala usebenza kuleso sifundazwe kuze kufike lolo suku oluyokunqunywa ngokuhambisana nezinhlamvana (2) no (3) futhi oluyokumenyezela ngesaziso kwi-*Gazethi*. 15

(2) uNdunankulu wesiFundazwe kumbe lowo oyiLungu loMkhandlu oMkhulu elibhekele izindaba zotshwala esifundazweni, angazisa uNgqongqoshe kaZwelonke ukuthi uhulumeni waleso sifundazwe unesifiso sokuba ahlanganise amakhanda naye uNgqongqoshe mayelana nokunqunywa kosuku okukhulunywa ngalo kwisigatshana (1), noma ngasiphi isikhathi emveni kokuba isishayomthetho saleso sifundazwe sesishaye umthetho— 20

- (a) ohambisanayo nezinhloso nezinjongo zalo Mthetho;
- (b) obhekela ukulawulwa kokukhiqizwa kancane, ukuthengiswa ezitolo kanye nokuthengwa kotshwala nesipilithi esingakulungele ukuphuzwa esifundazweni; 25
- (c) ophoqelesa ukuba wonke umuntu othintekayo ekukhiqizweni kumbe eku-thengisweni kotshwala nesipilithi esingakulungele ukuphuzwa kuleso sifundazwe, abhaliswe, kumbe abe nelayisense noma imvume yokwenza noma yikuphi kulokho;
- (d) mayelana namalaysense nezimvume okukhulunywa ngakho endimeni (c)— 30
 - (i) ohlinzekela inqubo ekahle eqondile, esobala futhi engenazo izindleko eziningi, lapho kufakwa izicelo, kucwaningwa lezo zicelo, nalapho kwemukelwa ukubhaliswa, amalaysense noma izimvume ezidingakalayo emthethweni; futhi
 - (ii) ohlinzekela ukugcinwa kwerejista yabo bonke abantu, amafemu, nezindawo okufanele ukuba zibhaliswe noma zinikwe amalaysense ngokusho kwalowo mthetho, kanye nokudluliselwa kwemininingwane kuNgqongqoshe kaZwelonke; 35
- (e) ohlinzekela ukudalwa kwezindlela zokuqapha ukuthi laba bantu ababhalisiwe noma abanikezwe amalaysense ngokomthetho waleso sifundazwe, bayayigcina imithetho; futhi 40
- (f) ohlinzekela ukuvikelwa okukahle kwesikhashana kwamalungelo alabo ababenikezwe amalaysense ngokwemithetho echithwe ngokwesigaba 46, lapho lawo malaysense ephathelene khona nokukhiqiza kancane, ukuthengiswa kanye nokusetshenziswa kotshwala nesipilithi esingakulungele ukuphuzwa. 45

(3) Emva kokwemukela isaziso ngokuhambisana nesigatshana (2), uNgqongqoshe kaZwelonke kufanele—

- (a) ngokuxoxisana neLungu loMkhandlu oMkhulu elifanelekile, anqume usuku okukhulunywa ngalo kwisigatshana (1) alumemezele ngasaziso kwi-*Gazethi*; noma 50
- (b) uma uNgqongqoshe, lapho enesizathu esiqinile sokwenze njalo, ekholelwa ukuthi imithetho yesifundazwe ayiyenelisi ngokugcwele imibandela efunwa (2), azise iLungu elifanelekile loMkhandlu oMkhulu ngalokho, abeke ngokusobala akusolayo malungana nemithetho yesifundazwe. 55

(4) Kuze kube kufika usuku okukhulunywa ngalo kwisigatshana (1), kunoma isiphi isifundazwe, indawo kulo Mthetho ethi “umthetho wesifundazwe ofanele” kufanele uthathwe njengochaza noma imuphi umthetho obalulwe kuSheduli 2 ophathelene

a reference to the provisions of any law mentioned in Schedule 2 that concern the micro-manufacture, retail sale or consumption of liquor or methylated spirits.

Transitional conflicts

3. The provisions of this Act prevail to the extent of any conflict between—
- (a) a provision of this Act; and
 - (b) a provision of an Act mentioned in Schedule 2 that remains in force in terms of item 2.

Conversion of existing licences

4. (1) Despite the repeal of the Liquor Act, 1989, upon the coming into operation of this Act—

- (a) a determination made under section 51 of that Act remains valid, as if that Act had not been repealed, for a period determined in accordance with this item; and
- (b) a licence issued under that Act remains valid, as if that Act had not been repealed, for a period determined in accordance with this item,

if that determination or licence, as the case may be, involved the manufacture or distribution of liquor, and was valid immediately before this Act came into operation.

(2) Subject to subitem (4), 90 days after this Act came into operation, a determination or licence referred to in subitem (1) that involved the manufacture or distribution of liquor, converts automatically to a registration under this Act as—

- (a) a manufacturer;
- (b) a distributor; or
- (c) both,

as elected by notification in writing to the Minister in accordance with subitem (3).

(3) A notification in terms of subitem (2)—

- (a) may be delivered to the Minister by hand, registered mail or fax within the 90-day period referred to in subitem (2); and
- (b) will be deemed to have been received by the Minister on—
 - (i) the date of delivery by hand or transmission by fax; or
 - (ii) three days after the date on which it is sent by registered mail.

(4) If a licensee of a licence or determination referred to in subitem (2) fails to make an election by notification to the Minister as contemplated in subitems (2) and (3), the licence or determination—

- (a) does not convert as contemplated in subitem (2); and
- (b) expires at the end of the last day of the 90-day period referred to in subitem (2).

(5) Within 12 months after the coming into operation of this Act, a manufacturer or distributor whose licence or determination has been converted in terms of subitem (2) must initiate a review by the Minister, by notice in the prescribed manner and form, of that manufacturer's or distributor's registration under this Act.

(6) Within 24 months after receiving an initiation notice in terms of subitem (5) and any additional relevant material that the Minister may require, the Minister must conduct a review of the initiator's registration, having regard to the objects of this Act, applying the criteria set out in section 13, and considering that the registered person is a going concern.

(7) Upon completing a review in terms of subitem (6), the Minister must either—

- (a) confirm the initiator's registration without alteration; or
- (b) confirm the initiator's registration, subject to further conditions that are reasonable, justifiable and relevant to the matters mentioned in subitem (6).

nokukhiqiza kancane, ukuthengiswa, noma ukuphuzwa kotshwala nesipilithi esingakulungele ukuphuzwa.

Ukushayisana kwemithetho ngesikhathi kwenziwa izinguquko

3. Lo Mthetho yiwona oyokulandelwa lapho kukhona ukushayisana—

- (a) phakathi kwezihlinzeko zalo Mthetho; 5
- (b) nemithetho okukhulunywa ngayo kuSheduli 2 esasebenzayo ngokwesigatshana 2.

Ukuguqulwa kwamalaysense

4. (1) Naphezu kokuchithwa koMthetho woTshwala ka-1989, lapho sekuqala ukusebenza lo Mthetho— 10

- (a) isinqumo esithathwe ngokulandela isigaba 51 salowo Mthetho, siyokuhlala sisebenza, kube sengathi lowo mthetho wawungazange wesulwa, kuze kuphele isikhathi esiyokunqunywa kulandelwa le ndima; futhi
- (b) ilayisense ekhishwe ngaphansi kwalowo mthetho iyohlala isebenza, kube sengathi lowo mthetho awuzange wesulwa kuze kuphele isikhathi 15 esiyokunqunywa kulandelwa le ndima, uma nje lesi sinqumo noma ilayisense iphathelele nokukhiqizwa noma ukuphakelwa kotshwala, futhi yayisasebenza ngesikhathi lo Mthetho uqala ukusebenza.

(2) Ngaphandle kokuphambana nokushiwo isigatshana (4), ezinsukwini ezingu 90 emva kokuba lo Mthetho uqale ukusebenza, isinqumo noma ilayisense okukhulunywe 20 ngayo kundimana (1), ephathelene nokukhiqizwa noma ukuphakelwa kotshwala, iyoziphendukela ngokwayo ngaphansi kwalo Mthetho ibe—

- (a) ngeyomkhiqizi;
- (b) ngeyomabi; noma
- (c) ngeyakho kokubili, 25

kuye ngalokho okukhethwe ngesasizo esibhaliwe esithunyelwe kuNgqongqoshe kaZwelonke ngokulandela indimana (3).

(3) Isaziso ngokulandela indimana (2)—

- (a) singahanjiswa kuNgqongqoshe ngesandla, sithunyelwe ngeposi kumbe ngefeksi zingakapheli izinsuku ezingu 90 okukhulunywe ngazo kundimana 30 (2); futhi

(b) sizothathwa njengesifinyelele kuNgqongqoshe kaZwelonke—

- (i) ngosuku esihanjiswe ngalo ngesandla noma esithunyelwe ngalo ngefeksi; noma
- (ii) emva kwezinsuku ezintathu kusukela sithunyelwe ngencwadi erejistiwe. 35

(4) Uma lowo onelayisense, kumbe owenzelwa isinqumo okukhulunywe ngaso kundimana (2), ehluleka ukuthumela isaziso sokukhetha kuNgqongqoshe kaZwelonke, njengokulandela indimana (2) no (3), leyo layisense kumbe isinqumo—

- (a) ayizukuguquka njengalokho kushiwo kundimana (2); futhi
- (b) iyophelelwa yisikhathi ekushoneni kwelanga lokugcina kulesi sikhathi 40 esiyizinsuku ezingu 90 okukhulunywe ngazo kundimana (2).

(5) Zingakapheli izinyanga ezingu 12 uqalile ukusebenza lo Mthetho, umkhiqizi noma umphaki, olayisense noma isinqumo sakhe, esiguqulwe kulandelwa indimana (2), kufanele acele uNgqongqoshe ukuba enze ubuyekezo lwendlela abhaliswe ngayo ngaphansi kwalo Mthetho. Lokhu kufanele akwenze ngokuthumela inothisi ngendlela 45 efanele emiselwe lokho.

(6) Zingakapheli izinyanga ezingu 24 emva kokuthola lesi nothisi okukhulunywa ngayo kundimana (5) neminye imininingwane ehambelana nayo engahle ifunwe nguNgqongqoshe, uNgqongqoshe kaZwelonke kufanele ayibuyekeze indlela abhaliswe ngayo lowo othumele inothisi, elandela imigomo nezinjongo zalo Mthetho, esebenzisa 50 imibandela ebekiwe kwisigaba 13, engakhohliwe ukuthi lowo ofake isicelo unebhizinisi elisebenzayo.

(7) Uma eseqedile ukubuyekeza okukhulunywe ngakho endimeni (6), uNgqongqoshe kaZwelonke kufanele—

- (a) avuselele ukubhaliswa kwalowo othumele sinothisi ngaphandle kwezi- 55 nguquko; noma
- (b) avuselele ukubhaliswa kwalowo ofake inothisi, ngaphansi kwemibandela ethile ekahle, efanelekile futhi ehambelana nalokho okukhulunywe ngakho endimeni (6).

(8) The provisions of section 13, read with the changes required by context, apply to any proposal by the Minister to impose further conditions as contemplated in subitem (7)(b).

(9) If a manufacturer or distributor who is required to initiate a review under subitem (5), fails to—

- (a) initiate that review within the time provided in subitem (5); or
- (b) provide additional relevant material to the Minister within six months after being requested to do so,

the Minister may cancel the registration of that manufacturer or distributor, in the manner set out in section 20 (4), (5) and (6).

(10) If the Minister fails to complete a review within the time allowed by subitem (6), the initiator's registration will continue in force, subject to any conditions that applied at the time the initiation notice was delivered to the Minister.

Transitional provisions concerning retail sale

5. Despite the repeal of the Liquor Act, 1989, until the date contemplated in item 2(1) with respect to any particular province, a person within that province who, at the coming into operation of this Act, was authorised in terms of that Act to engage in the retail sale of liquor may continue to engage in the retail sale of liquor to the extent permitted by that authorisation.

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

6. 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 this Act

7. Any application or matter received by a competent authority under the Liquor Act, 1989, before the date of commencement of this Act and not disposed of prior to that date, must be disposed of by that authority in terms of that Act despite its repeal.

Traditional African beer and powder

8. (1) If no definition of "traditional African beer" has been prescribed in terms of the Customs and Excise Act, 1964 (Act No. 91 of 1964), for the purposes of this Act, "traditional African beer" means a fermented liquid—

(a) made by—

- (i) the fermentation of malt, unmalted grain or meal of the cereals sorghum, maize, finger millet or pearl millet, with no more than five per cent sugar by weight relative to the combined weight of all the malt, grain or cereal ingredients; or
- (ii) combining traditional African beer powder with water;

(b) with no addition of ethyl alcohol;

(c) with an alcohol content not exceeding 3,5 per cent by volume;

(d) in a state of fermentation, or of which the fermentation has not been arrested; and

(e) not containing or flavoured with hops or any product derived from hops.

(2) If no definition of "traditional African beer powder" has been prescribed in terms of the Customs and Excise Act, 1964 (Act No. 91 of 1964), for the purposes of this Act, "traditional African beer powder" means a dry product—

(a) comprising—

- (i) not more than three parts by mass of milled sorghum or maize malt; and

(8) Izihlinzeko zesigaba 13, zifundwa zihlanganiswa nezinguquko ezifanele, kufanele zilandelwe lapho uNgqongqoshe kaZwelonke ebeka imibandela njengokulandela indimana (7)(b).

(9) Uma umphisi kumbe umabi ofanelwe ukuthumela inothisi yesibuyekezo ngaphansi kwendimana (5), ehluleka—

(a) ukuthumela inothisi yesibuyekezo singakapheli isikhathi okukhulunywe ngaso kundimana (5); noma

(b) ukuthumela iminingwane yokwengeza kuNgqongqoshe kaZwelonke, zingakapheli izinyanga ezisithupha leyo mininingwane iceliwe, uNgqongqoshe unokukuhoxisa ukubhaliswa kwalowo mkhiqizi kumbe umphaki, elandela indlela emiswe kwisigaba 20(4), (5) no (6).

(10) Uma uNgqongqoshe kaZwelonke ehluleka ukuphuthula ubuyekezo singakapheli isikhathi okukhulunywe ngaso kundimana (6), ukubhaliswa kwalowo ofake isicelo sobuyekezo, kuyoqhubeka ukusebenza, ngaphansi kwaleyo mibandela eyayikhona ngesikhathi ethumela inothisi kuNgqongqoshe kaZwelonke.

Imigomo yesikhashana ephathelene nokuthengisela umphakathi

5. Nakuba uMthetho woTshwala ka-1989 wachithwa, uma lungakafiki usuku okukhulunywa ngalo kwisigatshana 2(1) mayelana nanoma yisiphi isifundazwe, umuntu okuleso sifundazwe, oyothi lapho kuqala ukusebenza kwalo Mthetho, ebe enegunya ngokwalo Mthetho lokuthengisa utshwala, angaqhubeka nakubuthengisa phakathi kwemigomo nemikhawulo evunyelwe yilelo gunya.

Izimvume ezinikezwe ngaphansi kwesigaba 158(2) soMthetho woTshwala ka-1989

6. Noma iliphi igunya elikhishwe ngaphansi kwesigaba 158(2) soMthetho woTshwala ka-1989, liyaphela ngomhlaka 31 Disemba wonyaka olandela ukuqala kokusebenza kwalo Mthetho, futhi ukusukela ngalelo langa awusezuba namandla namsebenzi.

Izicelo zangaphambi kokuba kuqale lo Mthetho

7. Noma yisiphi isicelo kumbe udaba olufinyelele emnyangweni oqondene osebenza ngaphansi koMthetho woTshwala ka-1989, lungakafiki usuku lokuqala kokusebenza kwalo Mthetho, noma olwalungakaqedwa ukusetshenzelwa, kufanele luphuthulwe yilowo mnyango ngokuhambisana nomthetho omdala yize ususuliwe.

Utshwala besiNtu nempuphu yokubenza

8. (1) Uma kungukuthi umthetho ophathelene nentela ezimpahleni ezivela emazweni angaphandle (*Customs and Excise Act*), (uMthetho No. 91 ka-1964), awukabi nayo incazelo “yotshwala besiNtu”, kufanele ngokwezinhloso zalo Mthetho “utshwala besiNtu” busho uketshezi olubilisiwe—

(a) olwenziwe—

(i) ngokubilisa imithombo esanhlamvu, noma impuphu yamabele, yommbila, amabele anhlobo-nhlobo, ushukela ofakwe kukho ungeqi ku5% uma kuqhathaniswa nesisindo semithombo nokusanhlamvu sekuhlangene konke; noma

(ii) ngokuhlanganisa impuphu yotshwala bomdabu namanzi;

(b) olungazange lufakwe utshwala obusasipilithi;

(c) olunomongo wotshwala (*alcohol content*) olungevile ku3,5% womthamo;

(d) olusesimweni sokubila, noma ukubila kwalo okungazange kumiswe; noma

(e) olungafakwanga noma lwanandiswa ngehobhisi nanoma yimuphi omunye umkhiqizo owenziwa ngehobhisi.

(2) Uma kungukuthi umthetho ophathelene nentela kuzimpahla ezivela emazweni angaphandle (*Customs and Excise Act*), (uMthetho No. 91 ka-1964), awukabi nayo incazelo “yempuphu yotshwala besiNtu”, kufanele ngokwezinhloso zalo Mthetho “impuphu yotshwala besiNtu” kusho umkhiqizo owomile—

(a) oqukethe—

(i) izingxenywe ezingeqile kwezintathu zamabele agayiwe noma imithombo yommbila; futhi

- (ii) not less than seven parts by mass of milled precooked maize or sorghum unmalted grain or meal; and
- (b) which—
 - (i) does not contain any sugar derived from any source;
 - (ii) does not contain, and is not flavoured with, hops or products derived from hops; and
 - (iii) may contain active dry yeast added as a processing aid.

SCHEDULE 2

REPEAL OF LAWS

| 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 to 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 |

- (ii) izingxenye ezingengaphansi kweziyisikhombisa ngokwesisindo zommbila ogayiwe ophekiwe noma amabele angeyona imithombo noma impuphu; futhi
- (b) (i) ongafakiwe ushukela noma waluhlobo luni;
- (ii) ongaqukethe futhi onganandisiwe ngamahhobhisi kumbe imikhiqizo yawo; futhi 5
- (iii) kuvumelekile ukufaka isibiliso.

ISHEDULI 2

UKUCHITHWA KWEMITHETHO

| <i>INombolo nonyaka womthetho</i> | <i>Isihloko esifushane</i> | <i>Izinga lokuchithwa</i> | |
|-----------------------------------|---|---|----|
| UMthetho No. 27 ka-1989 | UMthetho woTshwala ka-1989 | Wonke | 10 |
| UMthetho No. 60 ka-1989 | UMthetho wemiKhiqizo yoTshwala ka-1989 | Isigaba 32 malungana nokuchibiyela kwaso uMthetho woTshwala ka-1989 | 15 |
| UMthetho No. 44 ka-1993 | UMthetho weNkampani yeziKhumulo zeziNdiza ka-1993 | Isigaba 35 | 20 |
| UMthetho No. 105 ka-1993 | UMthetho oyisiChibiyelo soMthetho woTshwala ka-1993 | Wonke | |
| UMthetho No. 57 ka-1995 | UMthetho oyisiChibiyelo soMthetho woTshwala ka-1995 | Wonke | 25 |

