



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 468

Pretoria, 9 June
Junie 2004

No. 26449



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CONTENTS • INHOUD*No.**Page
No. Gazette
No.***GENERAL NOTICE****Trade and Industry, Department of***General Notice*

1067	Liquor Act (59/2003): Notice of intention to promulgate regulations	3	26449
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GENERAL NOTICE

NOTICE 1067 OF 2004

DEPARTMENT OF TRADE AND INDUSTRY

NOTICE OF INTENTION TO PROMULGATE REGULATIONS IN TERMS OF THE LIQUOR ACT, 2003 (ACT NO. 59 OF 2003)

In terms of section 43 of the Liquor Act, 2003, notice is hereby given that the Minister of Trade and Industry intends promulgating the accompanying regulations, which are hereby published for public comment.

Interested parties are invited to submit written representations, by no later than 9 July 2004, to—

The Director
National Liquor Authority
Private Bag X84
Pretoria
0001

For Attention: Mr Jeremiah Mela
Tel: (012) 394 1500
Fax: (012) 394 2500

Kindly take note that the prescribed forms referred to in the proposed regulations can be obtained from the above-mentioned contact person or by visiting www.thedti.gov.za.

**REGULATIONS FOR THE REGISTRATION OF LIQUOR
MANUFACTURERS AND DISTRIBUTORS, AND RELATED
MATTERS ARISING UNDER THE LIQUOR ACT, 2003**

(Published in Government Notice R in Government Gazette of)

In terms of section 42 of the Liquor Act, 2003 (Act No. 59 of 2003), The Minister of Trade and Industry has made the following regulations relating to the procedures for registration and other matters required under the Act, to come into operation at the time that the Act comes into operation.

LIQUOR REGULATIONS

Part 1 – General Provisions

Division A – Interpretation

1. Short title

These Regulations may be cited as the *National Liquor Regulations, 2004*.

2. Interpretation

- (1) Section 1 applies to the interpretation of these Regulations.
- (2) In these Regulations, a reference to a section by number refers to the corresponding section of the Act;
 - (a) a reference to a Regulation by number refers to the corresponding item of these Regulations; and
 - (b) a reference to a sub-regulation or paragraph by number refers to the corresponding item of the Regulation in which the reference appears.
- (3) In these Regulations unless the context indicates otherwise,
 - (a) "Act" means the *Liquor Act, 2003* (Act No. 59 of 2003), as amended from time to time;
 - (b) "application" means a request for -
 - (i) registration submitted in terms of section 11,
 - (ii) transfer of registration submitted in terms section 15, or
 - (iii) conversion of registration submitted in terms of Item 4 of Schedule 1 of the Act.
 - (c) "certified copy" means a copy of a document certified by a Commissioner of Oaths;
 - (d) "deliver" depending on the context, means to serve, or to file, a document;

- (e) "file", when used as a verb, means to deposit with the National Liquor Authority;
 - (f) "National Liquor Authority" means the collectivity of officials within the department to whom the Minister has delegated powers of the Minister in terms of the Act;
 - (g) "public holiday" means a public holiday referred to in section 1 of the Public Holidays Act, 1994 (Act 36 of 1994);
 - (h) "Regulation" includes any footnote to a Regulation, and any Table included within or referred to in a Regulation;
 - (i) "serve" means to deliver a document to a person other than the National Liquor Authority.
- (4) For all purposes of these Regulations, a person is a historically disadvantaged person if that person -
- (a) is one of a category of individuals who, before the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), came into operation, were disadvantaged by unfair discrimination on the basis of race;
 - (b) is an association, a majority of whose members are individuals referred to in paragraph (a);
 - (c) is a juristic person other than an association, and individuals referred to in paragraph (a) own and control a majority of its issued share capital or members' interest and are able to control a majority of its votes; or
 - (d) is a juristic person or association, and persons referred to in paragraph (a), (b) or (c) own and control a majority of its issued share capital or members' interest and are able to control a majority of its votes.

Division B – National Liquor Authority Office Functions**3. Office hours and address of National Liquor Authority**

- (1) The offices of the National Liquor Authority are open to the public for the purposes of the Act every Monday to Friday, excluding public holidays, from 08:00 to 16:30.
- (2) Despite sub-regulation (1) –
 - (a) in exceptional circumstances the National Liquor Authority may accept documents for filing on any day and at any time; and
 - (b) the National Liquor Authority must accept documents for filing as directed by a court.
- (3) Subject to Regulations 5 and 7, any communication to the National Liquor Authority may be –
 - (a) Delivered by hand at:

The National Liquor Authority

The dti

77 Meintjies St

Pretoria

Republic of South Africa
 - (b) Addressed by post to:

The National Liquor Authority

The dti

Private Bag X84

Pretoria 0001

Republic of South Africa
 - (c) Communicated by telephone on +27(0)12 394 1499

- (d) Transmitted by fax on +27(0)12 394 2499 or
- (e) Transmitted by electronic mail to lbotes@thedti.gov.za.

4. Condonation of time limits

On good cause shown, the Director of the National Liquor Authority may condone late performance of an act in respect of which these Regulations prescribe a time limit, other than a time limit that is binding on the Minister or National Liquor Authority itself.

Part 2 – Delivery of Documents

5. Delivery of documents

- (1) A notice or document may be delivered in any manner set out in Table NLA 1.
- (2) Subject to sub-regulation (4), a document delivered by a method listed in the second column of Table NLA 1 will be deemed to have been delivered to the intended recipient on the date and at the time shown opposite that method, in the third column of that Table.
- (3) If, in a particular matter, it proves impossible to deliver a document in any manner provided for in these Regulations, the person concerned may apply to the High Court for an order of substituted service.
- (4) Subject to Regulation 3 (2), if the date and time of the delivery of a document referred to in Table NLA 1 is outside of the office hours of the National Liquor Authority as set out in Regulation 3(1), that document will be deemed to have been delivered on the next business day.
- (5) A document that is delivered by fax must include a cover page, and a document that is transmitted by electronic mail must be attached to a cover message, in either case setting out –
 - (a) The name, address, and telephone number of the sender;
 - (b) The name of the person to whom it is addressed, and the name of that person's representative, if it is being sent to the representative of a person;

- (c) The date and time of the transmission;
- (d) The total number of pages sent, including the cover page; and
- (e) The name and telephone number of the person to contact if the transmission appears to be incomplete or otherwise unsuccessful.

6. Issuing documents

- (1) If the Act or these Regulations require the Minister or National Liquor Authority to issue a document –
 - (a) the document will have been issued when it has been signed, and served on any person to whom it is addressed; and
 - (b) the document may be signed and served at any time of day, despite Regulation 3 (1).
- (2) Regulation 5 (4) does not apply to the service of a document issued by or in the name of the Minister or the National Liquor Authority.

7. Filing documents

- (1) The National Liquor Authority must assign distinctive case numbers to each –
 - (a) Application;
 - (b) Complaint; and
 - (c) Compliance notice.
- (2) The National Liquor Authority must ensure that every document subsequently filed in respect of the same matter is marked with the same case number.
- (3) The National Liquor Authority may refuse to accept a document subsequently filed in respect of the same proceedings that is not properly marked with the assigned case number.
- (4) A person who files any document in terms of the Act or these Regulations must provide to the National Liquor Authority that person's –
 - (a) legal name;
 - (b) address for service;

- (c) telephone number;
- (d) if available, email address and fax number; and
- (e) if the person is not an individual, the name of the individual authorised to deal with the National Liquor Authority on behalf of the person filing the document.

Part 3 - Notices

8. Form of notices and applications

Whenever a notice or application is required in terms of the Act, or an item of these Regulations, shown in column 1 of Table NLA 2, for a purpose listed in column 2 of that Table, the document must be substantially in the form of the annexure listed opposite that section number in column 3 of that Table, and must be produced subject to any conditions listed opposite that section number in column 4 of that Table.

9. Form of Certificates and Notices issued by Minister

- (1) Whenever the Minister or National Liquor Authority is required to issue a Certificate, Notice or Receipt in terms of the Act, or an item of these Regulations, shown in column 1 of Table NLA 3, for a purpose listed in column 2 of that Table, the document must be substantially in the form of the annexure listed opposite that section number in column 3 of that Table, and must be produced subject to any conditions listed opposite that section number in column 4 of that Table.
- (2) Whenever the Minister or National Liquor Authority is required, either in terms of the Act or these Regulations, to publish a notice in the Gazette, that notice must contain at least the following information:
 - (a) The name of any person directly affected by the notice.
 - (b) The file number assigned by the National Liquor Authority to the relevant matter.
 - (c) The provision of the Act or Regulations in terms of which the notice is required.

- (d) A brief and concise description of the nature of the relevant matter.
- (e) If the notice invites submissions, the last date on which submissions may be received.
- (f) If the notice reports a decision –
 - (i) a brief and concise description of the nature of the relevant decision;
 - (ii) a statement indicating whether reasons for the decision have been published, and if so, how a copy of those reasons may be obtained; and
 - (iii) a statement of any right of review of, or appeal from, that decision, including the period during which a review or appeal may be lodged.
- (g) The name, address and contact numbers of the person in the National Liquor Authority responsible for publishing the notice.

10. Form of National Register

The national register to be maintained in terms of section 23 must contain, at a minimum, the following details in respect of every registration issued nationally or provincially:

- (a) Name of the regulatory authority that issued the registration.
- (b) Date on which the registration was granted, and a synoptic history of the dates and nature of any change in the registration.
- (c) Name of the registrant, including any alternative trade name used by the registrant in respect of the registered activities.
- (d) A synopsis of the ownership structure of the registrant, including the names of the beneficial owners of the registrant, and the percentage of ownership of the registrant by historically disadvantaged persons.
- (e) The activities permitted by the registration.

- (f) The registrant's principal place of business, the provinces and municipalities in which the address of any premises at or from which the registered activities may take place.
- (g) Any conditions attached to the registration.
- (h) The number of employees engaged in the registered activities.
- (i) The annual turnover of the registrant from the registered activities.
- (j) The dates and summary details of any -
 - (i) Complaints against the registrant;
 - (ii) notices of non-compliance issued to the registrant;
 - (iii) compliance certificates issued to the registrant;
 - (iv) suspension of registration; and
 - (v) prosecutions and convictions against the registration in terms of the Act, or any law mentioned in section 19.
- (k) The dates and details of any transfers of the registration.
- (l) The dates and details of -
 - (i) any notice given by the registrant in terms of the Act and
 - (ii) any report filed by the registrant in terms of the Act.
- (m) The dates and details of cancellation of the registration.

Part 4 - Fees**11. Fees**

- (1) The fees in respect of applications and registrations are as set out in the following Table NLA 4:

Annual turnover from activities regulated under the Act	Type of application	Fee
Less than R 250 000 000	Application (s.11)	R 7 500
	Initial Registration	R 5 000
	Notice to review (Schedule 1 Item 4 (6))	R 7 500
	Annual Renewal of registration	R 5 000
	Transfer Fee (s.15)	R 2 500
	Request for variation of conditions (s. 16(1))	R 2 500
	Notice of change in location or activities (s. 16(3))	R 2 500
	Appointment of person to conduct activities (s. 17)	R 2 500
At least R 250 000 000, but less than R 1 billion.	Application (s.11)	R 10 000
	Initial Registration	R 7 500
	Notice to review (Schedule 1 Item 4 (6))	R 10 000
	Annual Renewal of registration	R 7 500
	Transfer Fee (s.15)	R 5 000
	Request for variation of conditions (s. 16(1))	R 5 000
	Notice of change in location or activities (s. 16(3))	R 5 000
	Appointment of person to conduct activities (s. 17)	R 5 000
At least R 1 billion.	Application (s.11)	R 25 000
	Initial Registration	R 15 000
	Notice to review (Schedule 1 Item 4 (6))	R 25 000
	Annual Renewal of registration	R 15 000
	Transfer Fee (s.15)	R 10 000
	Request for variation of conditions (s. 16(1))	R 10 000
	Notice of change in location or activities (s. 16(3))	R 10 000
	Appointment of person to conduct activities (s. 17)	R 10 000

- (2) An application fee must be paid at the same time that the application is filed.
- (3) An initial registration fee must be paid -
- within 30 days after the applicant receives a final statement of conditions of registration; and
 - before the registration certificate may be issued.
- (4) An annual renewal fee must be paid -
- At least one month before the anniversary date of the registrant's registration certificate; and
 - before a renewal certificate will be issued.

- (5) The National Liquor Authority may charge a fee of -
- (a) R1-00 per A4-size page or part thereof to any person wishing to copy a record in the possession of the National Liquor Authority; and
 - (b) R2-00 each for the National Liquor Authority's certificate on certified copies of documents.
- (6) A fee payment will be deemed to be received on -
- (a) the date that a cheque or money order in payment of that fee is delivered to the National Liquor Authority; or
 - (b) the date that a direct deposit or an electronic transfer of funds in the amount of that fee is credited to the account of the National Liquor Authority at the financial institution to which it is transferred.

Part 5 – Micro-Manufacturers

12. Threshold volume for micro-manufacturing

- (1) The threshold volume of liquor for the purposes of section 4(5)(a) of the Act is:
- (a) For manufacturers of beer, 100 million litres per year;
 - (b) For manufacturers of wine, 4 million litres per year; and
 - (c) For manufacturers of spirits, alcoholic fruit beverages or spirit coolers, 2 million litres per year.
- (2) If a person manufactures liquor of more than one of the categories listed in sub-Regulation (1), and falls above the threshold for any of those categories, that person is deemed to fall above the threshold for all the categories.

Part 6 – Registration

13. General registration requirements

- (1) A person wishing to be registered in terms of Section 11 must file Form NLA 1, which must-

- (a) satisfy all the filing instructions set out in that Form, and
 - (b) have attached to it all the documents required by those instructions.
- (2) The application requirements for registration are not complete until the applicant has -
 - (a) paid the required fees to the satisfaction of the National Liquor Authority; and
 - (b) responded, to the satisfaction of the National Liquor Authority, to any
 - (i) Demand for additional payment, in form NLA 2, issued to it by the National Liquor Authority in terms of sub-Regulation (4);
 - (ii) Notice of Incomplete Filing in Form NLA 3 issued to it by the National Liquor Authority in terms of Regulation 14 (1); or
 - (iii) Demand for Corrected Information in Form NLA 4 issued to it by the National Liquor Authority in terms of Regulation 14 (4)and either not taken on review, or confirmed on review.
- (3) The prescribed fees may be paid separately from the remaining items required under this Regulation.
- (4) If, as a result of information available to it, the National Liquor Authority believes that the applicant has underestimated the required fees payable with an application, the National Liquor Authority may issue a Demand for Additional Fees, in form NLA 2.

14. Review of notification

- (1) Within 10 business days after receiving an application in terms of section 11, the National Liquor Authority must either -
 - (a) deliver to the applicant a Notice of Incomplete Filing in Form NLA 3; or
 - (b) proceed to consider the application for registration.

- (2) If the National Liquor Authority concludes that the application appears to fall outside the jurisdiction of the Act, the National Liquor Authority must -
 - (a) so notify the applicant in writing; and
 - (b) refund all the fees paid on filing to the applicant.
- (3) At any time during the registration process, the National Liquor Authority may request an applicant to provide additional information relevant to the application for registration.
- (4) If, at any time, the National Liquor Authority believes that a document filed in respect of an application contains false or misleading information, the National Liquor Authority may issue a Demand for Corrected Information in Form NLA 4 to the person that filed that document.
- (5) Within 5 business days after receiving Form NLA 2, 3, or 4, the applicant may apply to the High Court for an order
 - (a) setting aside or reducing the demand for additional payment; or -
 - (b) setting aside any requirement set out in Form NLA 3 or NLA 4.

15. Conditional registration

- (1) After considering the application in terms of section 13, the National Liquor Authority may deliver to the applicant either -
 - (a) A final statement of conditions of registration in Form NLA 8, if the Authority does not propose to attach any conditions; or
 - (b) a statement of proposed conditions in Form NLA 6.
- (2) Within the time prescribed in section 13(6), the applicant must respond to any proposed conditions by filing a consent to, or refusal of, proposed conditions in Form NLA 7.
- (3) Upon receiving a consent to proposed conditions, the National Liquor Authority must deliver a final statement of conditions of registration in Form NLA 8.
- (4) Upon receiving a refusal of proposed conditions and after considering the submission by the applicant in support of that refusal, the National Liquor

Authority must deliver a final statement of conditions of registration in Form NLA 8.

- (5) If the applicant does not respond at all to Form NLA 6, the National Liquor Authority must notify the applicant in writing that the application is refused in terms of section 13(7)(b)(i).
- (6) When an applicant has paid the initial annual registration fee, as set out in Form NLA 8, the National Liquor Authority must deliver a registration certificate in Form NLA 9 to the registrant.

16. Other applications

- (1) A registrant may apply for re-consideration of the conditions of a registration in terms of Section 16 (1)(c), by filing Form NLA 12 and paying the prescribed fee.
- (2) A registrant who proposes to relocate or alter the nature or conduct of its activities must apply to the National Liquor Authority by filing Form NLA 14, and paying the prescribed fee.
- (3) An application to transfer registration may be made by either the transferor or transferee, by filing Form NLA 15, and paying the prescribed application fee.
- (4) Regulation 14 (1), (3), (4) and (5), and Regulation 15, each read with the changes required by the context, apply to an application under this Regulation.

17. Other notices

- (1) Within 7 business days after applying to a provincial regulatory authority for registration as a micro-manufacturer or as a retailer, a registrant must so advise the National Liquor Authority, by filing Form NLA 13.
- (2) A Notice of acquisition of control of a registered person must be reported by the acquiring firm, by filing Form NLA 11.
- (3) A Notice of voluntary cancellation of registration must be given by the registrant, or the administrator of the estate of the registrant, by filing Form NLA 17.
- (4) A Notice of sequestration or winding up of registrant must be given by the administrator of the estate, by filing Form NLA 18.

Part 7 – Compliance**18. Complaints**

- (1) An inspector, or a person adversely affected by conduct inconsistent with the Act, may file a complaint in Form NLA 20, alleging that –
 - (a) An unregistered person is engaging in conduct in respect of which the Act requires that person to be registered; or
 - (b) A registrant has acted in contravention of the Act or a condition of registration.
- (2) If a complaint alleges conduct that is an offence in terms of section 34, the National Liquor Authority must –
 - (a) assign an inspector to investigate the complaint, if it was not filed by an inspector; or
 - (b) refer the matter to the Director of Public Prosecutions, in any other case.
- (3) After investigating a complaint assigned in terms of subsection (2)(a), an inspector may –
 - (a) issue a compliance notice to the registrant, if any, in accordance with section 31 and Regulation 19;
 - (b) if the complaint alleges that an unregistered person is engaging in activity in respect of which the Act requires registration, issue an order to cease that conduct; or
 - (c) recommend to the National Liquor Authority that the complaint be –
 - (i) dismissed, if there is too little evidence to support the allegations;
or
 - (ii) referred to the Director of Public Prosecutions.

19. Compliance Notices

- (1) If a registrant appears to have breached an obligation of its registration, the National Liquor Authority must deliver to that registrant a compliance notice in Form NLA 21.
- (2) Within 21 days after receiving a Compliance Notice, a registrant may –
 - (a) submit to the National Liquor Authority a plan to remedy the breach; or
 - (b) request the National Liquor Authority to review the Compliance Notice on the grounds that the firm has substantially complied with its obligations.
- (3) If a registrant submits a plan to the National Liquor Authority in terms of sub-Regulation (2)(a), the National Liquor Authority may either-
 - (a) accept the proposed plan; or
 - (b) reject the proposed plan, and invite the firm to consult with the National Liquor Authority concerning the apparent breach, with the aim of establishing a plan satisfactory to the National Liquor Authority by which all of the registrant's obligations with respect to the approval or conditional approval may be satisfied.
- (4) If the National Liquor Authority accepts a proposed plan, in terms of either sub-Regulation (3)(a) or (b), the National Liquor Authority must -
 - (a) monitor the registrant's compliance with the plan; and
 - (b) deliver a compliance certificate to the registrant when it has substantially met the requirements of the notice or plan, as the case may be.

20. Information returns

- (1) A registered person must file an annual information return in Form NLA 28, at least 30 days before the anniversary of the registrant's current registration certificate.
- (2) A person referred to in section 42 (2) (a) (ii) must file an annual information return in Form NLA 29, on or before 31 March each year.

DECLARATION OF A SUBSTANCE TO BE LIQUOR UNDER THE LIQUOR ACT, 2003

(Published in Government Notice R in Government Gazette of)

In terms of sections 42 (2) of the Liquor Act, 2003 (Act No. 59 of 2003), The Minister of Trade and Industry hereby declares that -

- (a) a jelly like substance that contains alcohol and that is known as "jello's";
and
- (b) any substance similar to that referred to in paragraph (a)

are liquor for the purposes of the Act.

REGULATIONS FOR THE REGULATION OF METHYLATED SPIRITS, AND RELATED MATTERS ARISING UNDER THE LIQUOR ACT, 2003

(Published in Government Notice R in Government Gazette of)

In terms of sections 5 and 42 of the Liquor Act, 2003 (Act No. 59 of 2003), The Minister of Trade and Industry has made the following regulations relating to the regulation of methylated spirits and other matters required under the Act, to come into operation at the time that the Act comes into operation.

METHYLATED SPIRITS REGULATIONS, 2004

1. Short title

These Regulations may be cited as the *Methylated Spirits Regulations, 2004*.

2. Interpretation

- (1) Section 1 applies to the interpretation of these Regulations.
- (2) In these Regulations,
 - (a) a reference to a section by number refers to the corresponding section of the Act;
 - (b) a reference to a regulation by number refers to the corresponding item of these Regulations; and
 - (c) a reference to a sub-Regulation or paragraph by number refers to the corresponding item of the Regulation in which the reference appears.
- (3) In these Regulations unless the context indicates otherwise,
 - (a) "**Act**" means the *Liquor Act, 2003* (Act No. 23 of 2003), as amended from time to time;
 - (b) "**authorised dealer**" means the holder of a general dealer's or a chemist's licence issued in terms of any Act; and
 - (c) "**in bulk**" means a quantity of not less than ten litres contained in a single receptacle.

3. Sales of methylated spirit

- (1) A manufacturer of methylated spirit may sell or supply methylated spirit only to:
 - (a) an authorised dealer;
 - (b) a person who has been authorised in writing by the Secretary for Customs and Excise to purchase or obtain methylated spirit from a manufacturer of methylated spirit for any purpose, and subject to any conditions, that the Secretary may have determined; or
 - (c) an agent or master of a ship, if the methylated spirit is intended for export.
- (2) An authorised dealer may sell or supply methylated spirit in bulk only to:
 - (a) another authorised dealer;

- (b) a person who has been authorised in writing by the Secretary for Customs and Excise to purchase or obtain methylated spirit from a manufacturer of methylated spirit for any purpose, and subject to any conditions, that the Secretary may have determined; or
- (c) a medical practitioner, dentist, veterinarian, or person or educational institution.

4. Quantity sold and conditions of containers

- (1) A person manufacturing methylated spirit must not sell or supply that spirit other than in bulk.
- (2) An authorised dealer must sell methylated spirit either –
 - (a) in bulk, to the extent permitted by Regulation (3); or
 - (b) in a container holding at least 500 millilitres and not more than 1 000 millilitres.
- (3) An authorised dealer must not sell more than 2 litres of methylated spirit at one time to a person not referred to in sub-Regulation (2).
- (4) Except when sold in bulk, methylated spirit, must be sold or supplied in transparent receptacles –
 - (a) with a capacity of at least 500 millilitres and not more than 1 000 millilitres;
 - (b) which are securely stoppered or corked; and
 - (c) which are labelled with –
 - (i) the words "Methylated Spirit -Poisonous/Brandspiritus-Giftig" in letters that are more conspicuous than other letters appearing on the label; and
 - (ii) the name and business address of the authorised dealer.

5. Mixing spirit prohibited

An authorised dealer must not mix any solid or liquid substance with methylated spirit intended for sale or supply.

6. Register of purchases and sales

- (1) An authorised dealer must maintain a register at any place where the dealer receives, sells or supplies methylated spirit, and immediately record in that register –

- (a) The following information with respect to every receipt of methylated spirit at that place:
 - (i) the date on which it was received;
 - (ii) the quantity received; and
 - (iii) the name and address of the person from whom it was purchased or acquired;
 - (b) The following information with respect to every sale or supply of methylated spirit from that place:
 - (i) the date of sale or supply;
 - (ii) the name and residential address of the person to whom the methylated spirit is sold or supplied; and
 - (iii) the quantity of methylated spirit so sold or supplied.
- (2) Every register kept in terms of this Regulation must be retained by the authorised dealer for a period of 12 months from the date of the last entry therein.
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Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Publications: Tel: (012) 334-4508, 334-4509, 334-4510
Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504
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