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Summary of the National Liquor Act, 59 of 2003¹

The **National Liquor Act, No. 59 of 2003²** was assented to on 20 April 2004 and published in the Government Gazette on 26 April 2004.

Here's a summary of the Act:

1. **Purpose and Objectives** The Act aims to establish national norms and standards to **maintain economic unity within the liquor industry**. It provides for essential national and minimum standards for service rendering, and measures to promote co-operative government in liquor regulation.

The key objects of the Act are:

- To **reduce the socio-economic and other costs of alcohol abuse** by:
 - Setting essential national norms and standards in the liquor industry.
 - Regulating the manufacture and wholesale distribution of liquor.
 - Setting essential national norms and standards for the retail sale and micro-manufacture of liquor.
 - Providing for public participation in registration applications.
- To **promote the development of a responsible and sustainable liquor industry** by facilitating:
 - The entry of new participants.
 - Diversity of ownership.
 - An ethos of social responsibility.

2. **Application of the Act** The Act applies to all **manufacturing and distribution of liquor or methylated spirits**, and to the regulation of impotable substances within the Republic of South Africa. However, Section 4 of the Act does not apply to the sale of liquor from a **private collection**, which is defined as liquor acquired for private consumption without the intention of re-selling it.

¹ Source: Google NotebookLM

² Source: https://www.thedtic.gov.za/wp-content/uploads/nla_act2003.pdf
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3. Key Regulations and Prohibitions (Chapter 2)

- **Regulation of Manufacture and Distribution:** The Minister must regulate the manufacture and distribution of liquor. A person **must not manufacture or distribute liquor without being permitted** to do so by the Act.
 - A **manufacturer** may manufacture liquor and distribute it to other manufacturers, distributors, or retail sellers (if conditions permit).
 - A **distributor** may distribute liquor subject to registration conditions.
 - A **micro-manufacturer** (registered under provincial legislation) may manufacture liquor below a prescribed threshold volume and distribute it to other manufacturers, distributors, or retail sellers (if conditions permit).
 - A **retail seller** may purchase liquor (not by manufacturing) and sell it back as stock return to a manufacturer or distributor.
 - A retail sale to a registered person does not constitute distribution unless the retail seller knew or reasonably ought to have concluded that the purchaser intended to re-sell the liquor, considering factors like delivery instructions or requests for discounted pricing.
- **Regulation of Methylated Spirits:** Manufacturing or distributing methylated spirits must be done in accordance with the Act. The Minister can issue regulations concerning its declaration, importation, manufacture, distribution, use, sale, and record-keeping.
- **Prohibition of Impotable Substances:** It is prohibited to manufacture, sell, or supply any substance under the name of liquor or methylated spirits if it is not, or to add an impotable substance to liquor. An "impotable substance" is defined as any substance unsafe for human consumption.
- **Registered Activities from Registered Premises:** Registrants must carry out their activities and store liquor **only in or from registered premises** and according to regulations/conditions.
- **Prohibitions Regarding Employment:** A registered person **must not employ anyone under 16** in liquor manufacturing or distribution, unless they are

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undergoing training or a learnership. Employers also **cannot supply liquor as an inducement or in lieu of wages**, or deduct its cost from wages.

- **Advertising Restrictions:** Advertising liquor or methylated spirits in a **false, misleading, or minor-targeting manner is prohibited**. Advertising prohibited substances or falsely representing substances as liquor/methylated spirits is also forbidden.
- **Prohibition of Supply to Minors:** A person **must not sell or supply liquor or methylated spirits to a minor** (a person under 18). Exceptions include parents, adult guardians, or those administering religious sacraments supplying moderate quantities in their presence and under supervision. Reasonable measures must be taken to determine age. Minors must not falsely claim age, produce, import, or supply liquor to others.

4. Registration as Manufacturer and Distributor (Chapter 3)

- **Categories and Qualifications:** Qualified persons can apply to the Minister to be registered as a manufacturer, distributor, or both. Disqualifications for registration include being a minor, an unrehabilitated insolvent, committed under the Mental Health Act, or having certain convictions within the preceding three years.
- **Determination and Conditions:** The Minister may require further information and can refuse applications if information is not provided or if the applicant is disqualified. When registering an applicant, the Minister must consider criteria such as **black economic empowerment commitments, contributions to combating alcohol abuse, and the impact on new entrants, job creation, ownership diversity, efficiency, exports, and competition** within the industry. The Minister may propose reasonable and justifiable conditions on registration.
- **Certificate and Validity:** Upon registration, a certificate is issued, and the registration is entered into a national register. The registration takes effect upon certificate issuance and remains valid until deregistered or cancelled. Registrants must reflect their registered status and registration number on trading documents, comply with conditions, pay renewal fees, and keep prescribed records and reports.

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- **Transfer and Variation:** Registration can be transferred to another qualified person with Ministerial approval. Conditions of registration can be varied if the registrant becomes a micro-manufacturer or retail seller under provincial law, notifies of material alterations, or upon request, or after five years.
- **Death, Insolvency, or Incapability:** In such cases, an administrator of the estate (executor, liquidator, trustee, curator) may continue the registered activities or propose a transfer of registration.
- **Fees:** The Minister may prescribe application, initial registration, and annual renewal fees, with different fees for different categories.
- **Cancellation:** Registration can be cancelled by the Minister due to disqualification, non-compliance with conditions or the Act, repeated breaches of other relevant legislation, or failure to meet commitments. It can also be cancelled voluntarily by the registrant or due to sequestration or winding-up of the estate.
- **National Register:** The Minister must maintain a public register of all registered persons, allowing inspection and providing copies.
- **Review or Appeal:** Decisions of the Minister regarding registration are subject to review or appeal under the Promotion of Administrative Justice Act, 2000.

5. Compliance (Chapter 4)

- **Inspectors:** The Minister may designate inspectors with general or specific authority to exercise powers under the Act. Inspectors are considered peace officers.
- **Functions of Inspectors:** Inspectors can investigate complaints, monitor and enforce compliance, and conduct inspections. They may question persons, inspect and copy documents, take samples, **seize liquor manufactured or distributed contrary to the Act, or prohibited substances**. They must issue receipts for seized goods and secure them pending forfeiture decisions.
- **Entry of Premises:** Inspectors can enter premises with a magistrate's warrant if there's reason to believe the Act is not being complied with and entry is necessary. They can also enter without a warrant with consent, or routinely inspect registered premises (up to six times in 12 months). They can use reasonable force to overcome resistance when executing a warrant.

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- **Compliance Notices:** If an inspector believes non-compliance has occurred, a compliance notice can be issued to the registrant or premises owner/controller. The notice specifies the non-compliance, required steps, and potential penalties. Objections to compliance notices can be made to the Minister.

6. Offences and Penalties (Chapter 5)

- **Offences:** It is an offence to contravene or fail to comply with sections 4(2) (unlawful manufacture/distribution), 5(1) (unlawful methylated spirits), 6 (impotable substances), 7 (registered activities/premises), 8 (employment prohibitions), or 10 (supply to minors). Failing to comply with registration conditions, obstructing inspectors, furnishing false information, pretending to be a registrant or inspector, or falsifying documents are also offences.
- **Penalties and Forfeiture:**
 - Contravention of sections 4(2), 5(1), 6, 8, or 10 carries a fine of up to **R1,000,000 or imprisonment up to five years.**
 - Contravention of sections 7, 9, or 34 carries a fine of up to **R500,000 or imprisonment up to one year.**
 - A court convicting a person under section 4(2) must **order forfeiture of illegally manufactured or distributed liquor.**
 - A court convicting a person under section 5 must order forfeiture of illegally manufactured or sold methylated spirits.
 - A court convicting a person under section 6 must order **destruction of prohibited impotable substances.**
 - Forfeited liquor can be destroyed at the cost of the person from whom it was seized or sold to a registered person.
- **Imputation of Criminal Liability:** A person can be held guilty for an offence committed by a manager, agent, or employee if the act was within their scope of authority and the person connived at or permitted it, or did not take reasonable steps to prevent it.

7. National Liquor Policy Council (Chapter 6)

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- **Establishment and Composition:** A National Liquor Policy Council is established, consisting of the Minister (chair), the Member of the Executive Council responsible for liquor licensing for each province, the Director-General of the department, and one provincial designee.
- **Functions:** The Council serves as a forum for **intergovernmental cooperation**, consulting on national norms and standards, national policy, legislation, and any liquor industry matters. It also promotes intergovernmental relations and facilitates dispute settlement concerning the liquor industry.

8. Regulations and Notices (Chapter 7)

- **Public Health Considerations:** The Minister, in consultation with the Minister of Health, can prescribe the content and display manner of **public health notices on registered premises**.
- **Power to Issue Regulations:** The Minister, after consulting the Council, can make regulations to establish **uniform norms and standards** for the retail sale and micro-manufacture of liquor, concerning statistical information from provincial authorities and information from registered persons. The Minister can also declare substances to be liquor, beer, methylated spirits, or impotable substances, and make other regulations necessary to achieve the Act's objects.
- **Procedure:** Before promulgating regulations that materially and adversely affect any person, the Minister must notify affected persons, publish the regulation in the Gazette for public comment, and consider all feedback.

9. General and Transitional Provisions (Chapter 8 & Schedule 1)

- **Repeal of Laws:** The Act repeals previous liquor laws, including the Liquor Act, 1989.
- **Transitional Provisions:** Previous provincial laws concerning micro-manufacture, retail sale, or consumption of liquor remain in force until a date determined by the Minister in consultation with the province, provided the province enacts new consistent legislation.
- **Conversion of Existing Licences:** Licences under the repealed Liquor Act, 1989, that involved manufacturing or distribution convert automatically to a registration under the new Act after 90 days, unless the licensee fails to elect a category of registration.

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- **Traditional African Beer:** The Act provides definitions for "traditional African beer" and "traditional African beer powder" if no definitions are prescribed by the Customs and Excise Act, 1964.
- **Short Title and Commencement:** The Act is called the Liquor Act, 2003, and came into operation on a date determined by the President by proclamation.