

Liquor License North West

Liquor License Application Preparation Consultant

Liquor License Application North-West – NW.

North West Department of Economic Development & Tourism

The Liquor Board and/or its chairperson, considers and decides all applications that can be made in terms of the Act. A majority vote constitutes the decision of The Board and all meetings of The Board are suppose to be open to the public, though this is no longer practised by The Board who sits in small conference rooms and call the interested parties in a specific matter in and does not allow other persons to attend the meeting.

The Liquor Act, 27 of 1989 is still applicable in this province. This falls under the MEC for Finance And Economic Affairs and it provides for a number of role players in its administration:

- The Liquor Board;
- The administrative staff, including a secretary of “The Board”;
- The Designated Police Officer -“DPO”;
- The Magistrate; and
- Inspectors.
- **Liquor License North West**
- **THE LIQUOR BOARD**
- The Liquor Board consists of five members and three members is a quorum. It has a Chairperson and a deputy chairperson, a member nominated by the provincial commissioner of police and two further members.
- All decisions of The Board are taken “**in camera**”, meaning that only the board members and the secretary may be present and nobody else.
- Some matters can be decided by the chairperson or deputy chairperson and certain powers can be delegated. The Liquor Board is a quasi judicial body and should follow a process akin to that in a court of law but it is the prerogative of the chairperson to determine the process.

The Board considers and decides the following matters:

- Applications for new licences;
- Applications for the transfer of licences;
- Applications for the removal of licences;
- Applications for the acquisition of a financial interest in a liquor licensed business;

The chairperson can consider and decide applications for exemption, structural alterations, appointment of an interested party to be in control of the licensed business if the licensee has died or absconded, etc.

Once a decision has been taken, the decision-maker is “**functus officio**”, meaning he or it cannot change its mind and take a replacing decision. The only way of turning such a decision around is to ask the High Court to review the same, as will be discussed later.

Almost all applications must be done in a prescribed manner on prescribed forms and decisions usually are issued in a prescribed manner and on a prescribed form.

A licence comes into being by it being issued. It is given a reference number and a “licence” consists of this first document, a so called Form 4, and all further documents issued in respect thereof. It simply means that your licence file grows every year and all of it must be on the licensed premises.

The Liquor Board is “**a creature of statute**” and cannot expect of an applicant more than is prescribed or do more than it is empowered to do by virtue of its empowering legislation. It is obliged to do what its empowering legislation empowers it to do and if it does not, you can approach the High Court to make it do its work.

Anybody may appear before The Board in person or as representative of somebody else but if you are not a lawyer, you must hold a power of attorney.

THE DPO

The provincial commissioner of police must appoint a police officer as Designated Police Officer in respect of each magisterial district in the province. A DPO can be appointed for more than one district.

The DPO must file reports in respect of various types of applications, he/she must do a yearly inspection of a licensed premises and report to The Board in respect of any contraventions of the Act and when a licensee or its nominated, responsible person, becomes disqualified from holding a licence.

The DPO is a functionary of The Board and if the DPO does not “**report**” it is for The Board to deal with it, not the applicant.

THE MAGISTRATE

Licences are grouped by magisterial district and almost all applications are initiated by lodgment of the application with “**The Magistrate**”, which is the magistrate of the relevant district. You cannot lodge an application at the magistrate of a detached office.

The magistrate has no decision-making powers. The magistrate receives applications, allows people to inspect it and in certain cases to file objections; He/She must forward copies of applications to the DPO for reporting and ultimately forward everything to The Liquor Board.

The only decision-making power The Magistrate has is to grant special and occasional licences and The Liquor Board and its members have no competency in this respect.

INSPECTORS

The Board can appoint inspectors who will then almost do what the DPO does but their powers are more limited than those of the DPO. They usually report on premises which are already licensed and in respect of the completion of premises for purposes of the issuing of licences.

North West Provincial Liquor Board – Liquor License Application Procedure

- Complete **Form 2** and advertise notices in Government Gazette.
- **Form 1** – Complete form 1 – application form in three (3) copies. After completion of the application, attach the necessary documents i.e.
- Plans,
- Description of the premises,
- Motivation,
- Proof of payment (receipt) of registration and,
- Certified ID document.

In case of a company, trust, close corporation and other institutions please submit registration certificate.

- Commissioner of Oath. Sign the application forms before the Magistrate or at the Police station. (Commissioner of Oath), to affirm / attest that information furnished in the application and the documents attached is true.
- Lodging the Application.
- Pay at ABSA Bank the application fee of R 200, 00 into the following account: Account Name: Department of Economy & Enterprise Development; Bank Name: ABSA; Account Number: 4085956652; Reference Number: nwp000; Amount R 200, 00 in case of a new application (Section 19).
- Lodge with the appropriate Magistrate on the First Friday of the Month following the advertisement date.
- If such a Friday is a public holiday or a closed day, then lodge on the Friday thereafter. (i.e. the following Friday.)
- The applications lodged with the Magistrate will be send to the Secretary of the Liquor Board after 35 – days if there are no objections to the application.
- In the case of objections lodged then the application will be send after 42 Days.

LIQUOR ACT 27 OF 1989

**1) DOWNLOAD CHECKLIST SECTION 19
APPLICATION HERE**

2) DOWNLOAD APPLICATION FORM 1 HERE

[Reg.3(1)]

Amount R

Receipt No

Date

LIQUOR ACT, 1989

APPLICATION IN TERMS OF SECTION 19 OF A LICENSE

INDEX

Description of document

Annexure

- Application Form 1
- Plan of the premises [Reg. 3 (2) (a)] A
- Description or photos of the premises [Reg. 3 (2) (b)] B
- Comprehensive written representations [Reg. 3 (2) (c)] C
- Documents required to be attached to application [Reg. 3 (2) (d)] D
-
-

Application prepared by

Postal Address

Telephone No

1. (a) Full name of applicant

(b) Age

(c) Identity number or in the case of a company or close corporation, its registration number

.....

(d) Residential address or address of registered office

(e) Business address

(f) Postal address

(g) Business telephone number

[Delete (b) if applicant is not a natural person]

1. (a) Is applicant a person who-

- has in the Republic or elsewhere in the preceding 10 years been sentenced for any offence to imprisonment without the option of a fine Yes No
- has in the preceding 10 years been convicted of an offence in terms of the Liquor Act, 1989 (Act No. 27 of 1989) or the Liquor Act, 1977 (Act No. 87 of 1977), irrespective of the sentence imposed, and was within 5 years after the conviction again convicted of an offence in terms of any of the above-mentioned two Acts and was then sentenced therefor to a fine of not less than R200 or to imprisonment without the option of a fine?..... Yes No
- is not domiciled in the Republic? Yes No
- is an unrehabilitated insolvent? Yes No
- is a minor? Yes No
- is the spouse of a person contemplated in subparagraphs (i), (ii) or (iv)? Yes No

(Mark the applicable square)

(b) If the applicant is a company, close corporation, partnership or trust, state whether a person contemplated in subparagraph (a)-

(h) has a controlling interest in such a company, close corporation or trust Yes No

(ii) is a partner in such a partnership Yes No

(iii) is the main beneficiary under such a trust Yes No

(Mark the applicable square)

(c) If any of the questions in sub-paragraphs (a) or (b) have been replied to in the affirmative, provide full details Yes No

(Use an annexure if necessary)

1. (a) State the name, identify number and address of each person, including the applicant, who will have any financial interest in the business and in each case the nature and extend of such interest. [If the applicant is public company, statutory institution or a cooperative as contemplated in the Co-operatives Act, 1981 (Act No. 91 of 1981), it shall be sufficient if only the name and postal address of such company, statutory institution or co-operative, as the case may be, the name of each director (if any) thereof and the nature and extent of the financial interest of such company, statutory institution or co-operative are furnished and not also the interest of individual members of such company, statutory institution or co-operative]

(Use an annexure if necessary)

(b) State the financial interest in the liquor trade in the Republic of the applicant and if the applicant is a private company, close corporation, partnership or trust, also if every shareholder, member or partner thereof or beneficiary thereunder. (If the applicant or the said shareholder, member partner thereof or beneficiary thereunder. (If the applicant or the said shareholder, member, partner or beneficiary has no such interest, this fact shall be specifically mentioned.)

.....

(Use an annexure if necessary)

(c) In the case of an application for a liquor store license, sorghum beer brewer's license, sorghum beer license for off consumption or a special license for off-consumption, is the applicant-

(i) a producer or his agent? Yes No

(ii) a manufacturer of beer or his agent? Yes No

(iii) a person who has a financial interest in the business of a produce or a manufacturer of beer, or the agent of such a person? Yes No

(iv) a company in which shareholders having a financial interest in the business of a producer or a manufacturer or beer together hold a controlling interest, or the agent of such a company? Yes No

(v) a company in which a company contemplated in subparagraph (c) (iv) holds a controlling interest, or the agent of such a company? Yes No

1. (a) State the kind of licence applied for

(b) State the kind of liquor applicant intends selling thereunder

.....

1. If applicant is made for a wine farmer's license-

• Is the applicant-

• a persona who engages in viticulture? Yes No

• an association of persons the majority of the members of which engages in viticulture? Yes No

• a co-operative society [as defined in section 1 of the Wine and Spirit Control Act, 1970 (Act No. 47 of 1970).], which manufactures wine from grapes produced by members of the co-operative society and of which no other such co-operation society is a member? Yes No

• describe the situation of the premises where the liquor concerned is manufactured with reference to the erf, street and farm number

.....

(Delete paragraph 5 if not applicable)

(Mark the applicable square)

1. If application is made for a producer's license-

• is applicant a person who-

• engages in viticulture? Yes No

• manufactures any other fermented beverage? Yes No

• describe the situation of the premises where the liquor concerned is manufactured with reference to the erf, street and farm number

1. In the case of a special or sorghum beer license, state whether it is intended to sell liquor for consumption on or off the licensed premises
 2. Under what name is the business to be conducted?
 3. (a) Describe the situation of the premises where the business is to be conducted by reference to the erf, street or farm number
- (b). In which district in the premises referred to in subparagraph (a); situated?

1. Will applicant have the right to occupy the premises referred to in paragraph 9, including such place on other premises upon which any approval is to be exercised, for the purpose of the licence applied for?
.....

(Mark the applicable square)

1. In the case of an application for an on-consumption licence, state in which portion of the premises the sale of liquor is to take place.....

2. (a) Is application made in respect of premises which-

- have not yet been erected? Yes No

or

- are already erected, but require additions or alterations to make them suitable for the purposes of the proposed business? Yes No

or

- are already erected and, in the applicant's opinion, do not require additions or alterations in order to make them suitable for such purpose? Yes No

(b). If paragraph 12 (a) (i) or (ii) applies, state-

- (i) the date on which such erections, additions or alterations will be commenced

with; and

- (ii) the period which will be required for the erection, additions or alterations

.....

1. (a) Is application made for any determination, consent, approval or authority which may be granted by the competent authority? (e.g. other business or tasting facilities) ...

(Mark the applicable square)

Yes No

(b) If so, give full particulars with reference to the section in terms of which application is made

..... Yes No

(Use an annexure if necessary)

1. In the case of a club liquor license, attach a copy of the rule of the club, certified by the president, chairman or secretary thereof

Annexure

I declare / truly affirm that the information furnished in this application and in the documents attached to it, is true.

Date

*Signature of applicant or person authorized
to sign application*

I certify that this declaration has been signed and sworn to/affirmed before me at

thisday of.....by the applicant/person authorized to sign application
who acknowledged that-

- he/she knows and understands the contents of this declaration;
- he/she has no objection to taking the prescribed oath/affirmation; and
- he/she considers the prescribed oath as binding on his/her conscience, and that he/she uttered the following words:

“I swear that the contents of this declaration are true, so help me God.”

“I truly affirm that the contents of this declaration are true.”

.....

Commissioner of Oaths

Full Name

Business Address

Designation

Area for which appointment is held

Office held if appointment is ex officio