

ENABLING &
PROMOTING

A RESPONSIBLE
LIQUOR INDUSTRY



EASTERN CAPE
LIQUOR BOARD

LICENCING POLICY

POLICY

Policy Version Control

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ACRONYMS:

Department of Home Affairs	DHA
Eastern Cape Liquor Act 10 of 2003	ACT
Eastern Cape Liquor Board	ECLB
Eastern Cape Province	EC
South Africa	SA
South African Police Services	SAPS
South African Revenue Services	SARS
Standard Operating Procedures	SOP

DEFINITIONS:

- a. *"Board"* means Eastern Cape Liquor Board.
- b. *"Community consultation"* means Consultation with members of the community in respect of the pending application for registration conducted by Ward Committee as defined in section 22(d)(i) of the Eastern cape Liquor Act No 10 of 2003.
- c. *"Customs and Excise Certificate"* means certificate issued by South African Revenue Services (SARS)- Customs Department for manufacturers of liquor.
- d. *"Days"* means Calendar days.
- e. *"Foreigner"* means an individual who is neither a citizen nor resident but not an illegal foreigner referred to in Section 25 of Immigration Act, 2002.
- f. *"Lodgement"* means all requirements in terms of the ECLA No.10 of 2003 from Section 22 (i) and (ii) have been met and in accordance with the SOP.
- g. *"Objections"* means written submissions against the registration of an application.
- h. *"Power of Attorney"* means formal document giving permission to represent.
- i. *"Radius"* means distance measured from nearest pole to nearest pole.
- j. *"Representations"* means written submissions in support of the registration of an application.
- k. *"Resident"* means the holder of a permanent residence permit referred to in Section 25 of Immigration Act, 2002.
- l. *"Right to occupy"* means proof granting the applicant rights to occupy the proposed outlet premises that includes proof of ownership, lease agreement, Permission to Occupy (PTO) as well as the letter from the Traditional Leaders Authority and any other proof to occupy that the Board deems necessary in terms of Section 22(b) of the ECLA, No. 10 of 2003.

- m. “*Standard Operating Procedures*” means set of step-by-step instructions compiled by an organisation to help workers carry out routine operations.
- n. “*Tax Registration*” means proof of registration with South African Revenue Services (SARS).
- o. “*unlawful occupier*” means a person who occupies land without the express or tacit consent of the owner or person in charge, or without any other right in law to occupy such land.

1. EASTERN CAPE LIQUOR BOARD LEGISLATIVE MANDATE:

Section 2 of the Eastern Cape Liquor Act 10 of 2003 (Act) outlines its mandate as follows:

- 1.1 to issue licences for liquor trading at micro-manufacturing and retail sales levels.
- 1.2 to ensure compliance with the conditions stipulated in the liquor licence issued.
- 1.3 to facilitate programmes that mitigate against alcohol abuse.
- 1.4 to promote and develop new entrants into the liquor industry.
- 1.5 to ensure that the liquor industry maintains adequate standards.
- 1.6 to facilitate programmes geared towards minimising the negative socio-economic impact resulting from abuse of alcohol.

2. POLICY OBJECTIVES

The objective of this policy is to assist the Board towards giving effect:

- 2.1 to exercising its powers in terms of Chapter 3 of the Act.
- 2.2 to determining if the applicant meets the requirements of registration.
- 2.3 to substantiate the provision contained in Section 22 (2) (b) of the Act.
- 2.4 to substantiate the provision contained in Section 22(5) of the Act. to give effect to the handling of objections lodged with the Board, including the holding of a hearing in terms of Section 17 of the Act.

3. GUIDING PRINCIPLES

- 3.1 When the Board determines if an applicant meets the requirements of registration, the following shall be taken into consideration:
- 3.1.1 The processes of application and registration as contained in Chapter 3 of the Act.
 - 3.1.2 All applicable legislations, government policies and procedures relating to liquor trading.
 - 3.1.3 Factors relevant to the application such as its proposed location, type and condition of the structure and other factors which may be deemed relevant by the Board.
 - 3.1.4 Public interest.
 - 3.1.5 Objections received.
 - 3.1.6 Any laws, including by-laws and municipal ordinances which may be relevant to the application.
 - 3.1.7 Risk profile of the applicant e.g. an unrehabilitated insolvent; a person of unsound mind.
- 3.2 No application for liquor trading from an unlawful occupier will be considered.

4. ADMINISTRATION

4.1 Requirements:

- 4.1.1 An applicant shall be advised that the Eastern Cape Liquor Act No 13 of 2003 does not preclude them from complying with other pieces of legislation relating to business regulations.
- 4.1.2 An applicant shall be advised of the ECLB Liquor Licencing Policy and SOP.
- 4.1.3 An application shall be captured within 24 hours unless received on a Friday or day preceding a public holiday.
- 4.1.4 A power of attorney is required for the people who are representing and completing forms on behalf of the applicant.

- 4.1.5 A company resolution is required where a juristic person submits an application.
- 4.1.6 Proof of tax registration with SARS is required for all applications excluding: -
- 4.1.6.1 A removal application.
 - 4.1.6.2 A special event application.
- 4.1.7 Submission of proof of right to occupy and use of the premises for liquor trading in the form of a Title Deed or Permission to Occupy Certificate, a letter signed by the relevant Chief / Chieftainess or Headman / Headwoman, a valid lease agreement accompanied by proof of ownership of premises by the landlord or a letter of confirmation from an authorised official from the local municipality shall suffice for the purpose of an application.
- 4.1.8 Written proof of approval by the relevant local municipality that the earmarked premises complies with municipal business and building regulations will be required where necessary.
- 4.1.9 The Board shall provide an applicant with relevant forms relating to conducting the community consultation.
- 4.1.10 The Board shall only consider community consultation report after verification of its validity and submission of Ward Councillors report to the municipal council.
- 4.1.11 The Board shall consider application on the bases of the plan of the premises and the description thereof.

- 4.1.12 Applications for change of plan and extension of the trading premises must further submit written approval of such change of plan issued by the relevant local municipality.
- 4.1.13 An application for appointment of a foreigner to be a manager must include documented proof of permanent residence in SA issued by the DHA.
- 4.1.14 A foreigner applying for a liquor licence must submit a valid business permit issued by the DHA.
- 4.1.15 All persons for which managers appointment applications are made will have their identification verified by the DHA.
- 4.1.16 Special event applications will require the following: -
- 4.1.16.1 An application must be lodged within 30 days prior to the planned event.
 - 4.1.16.2 An applicant must respond to objections within 7 days of receipt of notification thereof.
 - 4.1.16.3 An applicant for a music or a sport event must demonstrate commitment to promote local products by providing EC liquor micro-manufacturers a space to showcase and sell their liquor products at such an event.
 - 4.1.16.4 Documentary proof of special event noise pollution exemption by the local municipality at which the event is to take place.
 - 4.1.16.5 Written proof of risk categorization certificate issued by SAPS in terms of the Safety at Sports and Recreational Events Act 2 of 2010.
 - 4.1.16.6 Written proof of a local municipality consent for the event to take place.

4.1.16.7 An Inspector shall confirm the validity of the risk categorization certificate, local municipality consent and a noise pollution certificate exemption.

4.1.16.8 The Board shall only consider request for the postponement of a special event upon receipt of written request and on condition that the proposed postponement date falls within the same financial year as that of the original date.

4.1.16.9 Written proof of approval by the designated officer of the Provincial Eastern Cape Department of Education in the case of a public school and, a Governing Body in the case of a private school should the special event be planned to be held at the school premises.

4.1.17 Applications for micromanufacturing must further submit the following:

4.1.17.1 A written authorisation letter of approval for the liquor product by the Department of Agriculture in line with the Liquor Products Act 60 of 1989.

4.1.17.2 A Customs and Excise Certificate which must be obtained from SARS.

4.1.17.3 A letter from the local municipality confirming the right to use the property for the intended purpose of the manufacturing of liquor and compliance with health and safety standards as prescribed by the municipality.

4.1.18 In applying Section 22(2)(b) of the Act, the Board reserves the right to verify any information provided by the applicant or licence holder from a third party and request documentary proof thereof.

4.1.19 An applicant shall be advised that their personal information will be published in Government Gazette as prescribed in Section 22(3) of the Act and in compliance with the POPI Act.

4.2 Objections:

4.2.1 In consideration of the provisions of the Promotion of Administrative Justice Act 3 of 2000 and in order to give effect to the right to procedurally fair administrative action, the Board may consider late submission of objections where such non-compliance is as result of a delay in serving notice to an interested party in that community and where such non-compliance with the lodgement of objections would materially and adversely affect the rights of the public.

4.2.2 The Board shall inform an applicant and/or objector of the outcome of application in writing within 30days from date of its consideration.

4.2.3 The applicant and/or an objector has a right to submit an appeal to the Panel of Appeal against the decision made by the Board to be reviewed.

4.3 Consideration:

4.3.1 Should the Board hold an opinion that the application does not meet the requirements of registration as referred to in Section 22 of the Act, a Notice issued in terms of Section 22(5) will be provided to the applicant to comply with outstanding requirements within 30 days. The Board may consider extension of the afforded period of 30 days upon receipt of a written and substantiated request by the applicant.

4.3.2 Upon receipt of objections and the consideration of the content thereof, Management will determine the validity of the lodged objections.

4.3.3 When the validation of objections and validity thereof is confirmed the hearing procedure will be invoked as provided for in terms of Section 17 of the Act.

4.3.4 Where the Board considers having a public hearing, all relevant aspects of the requirements to apply for the liquor licence and as prescribed in Section 22(2) of the Act and the ECLB Liquor Licencing Policy will be considered.

4.3.5 The Board may request further investigation or enquiry to assist in decision making.

4.3.6 The Board shall also utilise other communication methods over and above the prescribed methods of service as outlined in Section 62 of the Act.

4.3.7 The Board shall provide the applicant with written reasons for refusal of an application.

4.3.8 Any request for reasons as contemplated in clause 4.3.7 must be brought in compliance with the provisions contained in the Promotion of Access to Information Act.

5. REGULATION TERMS AND CONDITIONS:

5.1 A registered person must ensure that his or her licence is renewed annually within the legislated period.

5.2 The registered person shall be accountable for the Terms and Conditions attached to the licence certificate issued for the right to trade in liquor.

6. ENFORCEMENT

6.1 Any employee found to have violated this policy may be subject to disciplinary action.

7. CONCLUSION

7.1 The policy will be reviewed as and when the operational requirements of the ECLB require same.

Submitted by.



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Mr. P. Tyali
Senior Manager: Licencing
Date: 05/12/2023

Recommended/Not recommended



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Dr. N. Makala

Chief Executive officer

Date: 29/11/23

Approved/~~Not approved~~



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Mr. M. Gobingca

Chairperson of the Board

Date: 29/11/23