

**KWAZULU-NATAL
LIQUOR LICENSING AMENDMENT BILL, 2024**

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the KwaZulu-Natal Liquor Licensing Act, 2010, so as to substitute definitions and to insert certain definitions; to provide for the substitution of the word circumference with the word radius; to provide for the establishment of KwaZulu-Natal Liquor Licensing Tribunal and other committees to assist the Authority; to provide for the repeal of Chapter 2, 3, 4 and 5 of the principal Act; to provide for the prohibitions for liquor outlets trading in residential areas to provide for the amendment of the annual fees, to provide for the amendment of processes relating to renewals; to provide for the regulation of online retail sale of liquor; to provide for penalties in relation to contraventions in section 93, as amended; to provide for the establishment of a Social and Awareness fund; to provide for the amendment of trading hours; to provide for condonation and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:–

Amendment of section 1 of Act 6 of 2010

1. Section 1 of the KwaZulu-Natal Liquor Licensing Act, 2010 (Act No. 6 of 2010), as amended, hereinafter referred to as the principal Act, is hereby amended by the insertion of the following definitions:

”**Accredited Financial Consultant**” means a Financial expert authorized and certified to provide financial advice by the Law;

”**Alcohol Free Zone**’ means any area within a residential area demarcated by the relevant Municipality in any open public space (where municipalities have by laws applicable) to which the public has or is granted access (irrespective of whether the access is granted against any payment or not), which may include, any road, street lane or thoroughfare, public beaches, parks, any state private institution or any vacant land;

”**Application**’ means all completed documentation compliant with the provisions of this Act;”;

”**Authority**” means the KwaZulu-Natal Economic Regulatory Authority established in terms of section 8 of the KwaZulu-Natal Economic Regulatory Act;”

”**Board**’ means the Board of Directors established in term of section 11 of the KwaZulu-Natal Economic Regulator Act, which exercises governance and oversight of the KwaZulu-Natal Economic Regulator as contemplated in terms of the Companies Act, 2008 (Act No. 71 of 2008), as amended the structure as well that has primary accountability for the governance and performance of the KwaZulu-Natal Economic Regulator and is the accounting authority in terms of section 49(2)(a) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), as amended;”;

”**Board Review Committee**’ means a committee established by the Board to review the decisions of the Tribunal;

”**Boat Venues**’ means a vessel within any body of water in KwaZulu-Natal from which liquor is sold;”; (*KZNERA to provide definition*)

”**Compliance**’ means adherence to the provisions and conditions of this Act and its Regulations or any other law that may be relevant related inspection to any liquor inspections as envisaged in terms of section 89 of this Act;”;

”**Governing Board**’ means the Board of the Authority established in terms of section 11 of the KwaZulu-Natal Economic Regulatory Act is defined as a Board of directors which as a collective exercises’ governance oversight of the Entity;”;

“large quantity of liquor” means liquor containers containing liquor exceeding the volume of 100 litres;”;

“KZN Liquor Authority” wherever reference is made to the KZN Liquor Authority, same shall refer to the KwaZulu-Natal Economic Regulator;”;

“Liquor Licensing Consultant” means a person who provides administrative services on behalf of the Liquor Traders and applicants with the Authority;”;

“Liquor Licensing Tribunal” means the Adjudication Committee appointed in terms of section 8 of the Amendment Act;”;

“Learning institution” means a public or private institution or non-governmental organization which provides training and/or facilitates a training process for the achievement of competencies in line with nationally recognized standards and includes schools as provided for by The South African School’s Act, 1996 of (Act No. 84 of 1996), as amended and the Early Childhood Development Centres as defined by The Childcare Act, 1983 (Act No. 74 of 1983), as amended and excludes Institutions of Higher Learning established in accordance of the Higher education Act, 1997 (Act no. 101 of 1997), as amended;”;

[“Liquor Board” means the Board established in terms of section 5 of the Liquor Act, 1989 (Act No. 27 of 1989);”];

“nightclub” means premises that are open at day or night and where dancing and music are usually provided;

“Radius’ is calculated as 100m distance measured in a straight line from any point on a boundary of the proposed licensed premises to the closest boundary in a straight line from any point on a boundary of either a religious or learning institution in any direction and only within a residential area;”;

“Religious institution’ means a place of worship, situated within an area demarcated for that purpose by the relevant municipality in accordance with applicable zoning laws;”;

“Residential Area” means a land used in which housing predominates as opposed to industrial and commercial areas as per applicable zoning laws;

“Seasonal periods” mean, times of high or low demand in industries like retail or tourism, which may include but not limited to public and school holidays, shopping season, Easter holidays, festive season or tourist seasons (summer or winter vacations);

“Special events’ means an event organized at specified place for a specified duration where the sale of liquor is incidental to the event;”;

Amendment of section 2 of Act 6 of 2010

2. Section 2 of the principal Act is hereby amended by the addition of paragraph (e), (f) and (g):

“(e) to provide for measures to control the liquor industry;

(f) to determine measures which facilitates a liquor licencing fee framework to regulate the liquor industry in terms of fees applicable as prescribed in section 64(15), which may be prescribed by the Member of The Executive Council from time to time;

(g) to provide for the regulation of the Liquor Licensing Consultants, Code of Conduct and the payment of the registration fee in a prescribed manner; and

(h) to empower the MEC to provide any other measures or guidelines in order to give effect to the provisions of this Act.”.

Amendment of section 4 of Act 6 of 2010

3. Section 4 of the principal Act is hereby amended by the substitution of paragraph (b) of the following paragraph:

“(b) [establish measures to a social responsibility programme in respect of alcohol consumption; and] by proclamation in the government *gazette*–

- (i) determine measures that are intended to control various aspects of the Liquor Industry as and when required;
- (ii) determine guidelines which will regulate the transportation of liquor facilitated through an online retail sale, where the transportation of liquor is not the core business of the transporter;
- (iii) revise the fines for contraventions and non-compliance as prescribed in section 89 of the Act; and”.

Amendment of section 5 of Act 6 of 2010

4. Section 5 of the principal Act is hereby repealed and replaced by the provisions of section 5 read with section 6 of the KwaZulu-Natal Economic Regulatory Act.

Amendment of section 6 of Act 6 of 2010

5.(a) Sections 6 of the Principal Act is hereby amended by deleting the word **[Liquor]** wherever it appears in the text;

(b) Sections 6 to 21 of the Principal Act is hereby amended by substituting the word **[Authority]** by the word “Board” wherever it appears in the text; “.

Amendment of section 7 of Act 6 of 2010

6. (a) Section 7(1) is amended by the—

- (a) addition of subsection (a)(i) “administer liquor regulation in the Province;
- (b) addition of subsection (a)(ii) “receive applications for liquor licences in terms of this Act and to transmit the applications to the Liquor Licensing Tribunal for adjudication”;
- (c) addition of subsection (a)(iii) “issue licences in those cases where the Liquor Licensing Tribunal has granted licences; and
- (iv) establish a social responsibility programme in respect of alcohol consumption”;
- (d) deletion of subsection (b);
- (e) deletion of subsection (1)(j)(i).

(f) insertion of a new subsection (jJ) appoint the Chief Executive officer in consultation with the Member of Executive Authority and members of the Liquor Licensing Tribunal;”

(b) Section 7(2) is amended by–

“(a) the insertion of a new subsection (fF) “delegate any of its powers in accordance with section 21.””.

Amendment of Chapter 2 of Act 6 of 2010

7. Chapter 2 of the principal Act is hereby amended by the deletion of section 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 20, and 21, of the principal Act is hereby repealed and replaced by the provisions of Chapter 4 of the KwaZulu-Natal Economic Regulatory Act.

Amendment of section 16 of Act 6 of 2010

Insertion of section 16A to 16K of Chapter 2 of Act 6 of 2010

8. The following section is hereby inserted after Section 16 of the principal Act–

”Establishment of the KwaZulu-Natal Liquor Licensing Tribunal

16A. (1) The KwaZulu-Natal Liquor Licensing Tribunal is hereby established, and shall be referred to as the Liquor Licensing Tribunal.

(2) The Liquor Licensing Tribunal must exercise its functions according to the provisions of this Act, impartially, without fear, favour or prejudice.

(3) The Board must maintain oversight over the administration of the Liquor Licensing Tribunal, but may not revoke or alter any decision of the Liquor Licensing Tribunal taken in the exercise or performance of its powers, duties and functions in terms of this Act unless the following circumstances take place;

(a) the Liquor Licensing Tribunal failed to consider information presented in the consideration of the application;

(b) the Liquor Licensing Tribunal failed to consider reasonable objections lodged;

(c) the Liquor Licensing Tribunal misinterpreted the legislation;

(d) the Liquor Licensing Tribunal failed to consider reasonable grounds for the application, but instead considered unreasonable grounds; and

(e) the members of the Liquor Licensing Tribunal misconducted themselves.

(4) If circumstances listed in subparagraph (a) to (e), take place, then the delegated administrative official of the KwaZulu-Natal Economic Regulator must prepare a report to the Chief Executive Officer to invoke the provisions of the Board Review Committee, to consider the review application.

(5) The decision of the Liquor Licensing Tribunal may be subjected to review to the Board Review Committee, by the Chief Executive Officer responsible for administration within the administration.

(6) Any applicant, license holder, or interested party who had been part of the original proceedings of the Liquor Licensing Tribunal or administration can apply via the Chief Executive Officer to invoke the review.

Composition, nomination, and appointment of the Liquor Licensing Tribunal

16B. (1) The Liquor Licensing Tribunal must consist of not more than six (6) members appointed by the Board; and

(2) the Chief Executive Officer or his or her delegated employee or official from the Authority who is responsible for the administrative processes relating to licence applications as an ex officio member with no voting powers.

(3) The members contemplated in subsection (1) must include one member–

(a) with a legal qualification equivalent to those required for admission as an attorney, or an advocate of the High Court of South Africa, and with experience in the administration of justice, who shall be a Presiding Officer of the Liquor Licensing Tribunal;

(b) with the same qualification as stated in paragraph (a) as the Deputy Presiding Officer;

(c) from the South African Police Service, designated by the Provincial commissioner;

(d) from the organized commerce;

(e) representing an organized and recognized civil society group; and

(f) representing organized local government.

(4) The members will be appointed by the Board in accordance with a prescribed procedure, which must provide for public nomination of the members referred to in subsection (1)(a), (b), (d), and (e);

(5) Members who are eligible for appointment in terms of subsection (1)(a) to subsection (f),

must be legal permanent residents in the Province.

(6) If the Presiding Officer is not available to perform his or her functions or the office of the Presiding Officer is vacant, the Deputy Presiding Officer must act as the Presiding Officer and perform all the functions assigned to the Presiding Officer by this Act.

(7) Before being appointed a member of Liquor Licensing Tribunal the candidate must submit an affidavit to the Board in which such a candidate declares that he or she is not disqualified in terms of section 16C of this Act.

(8) The Board may at any time call for proof to its satisfaction of the continued eligibility of any member or prospective member of the Liquor Licensing Tribunal or undertake or cause to be undertaken any investigation or enquiry in this regard.

Disqualification for appointment as member of Liquor Licensing Tribunal

16C. (1) The Board must when considering appointment of tribunal members, consider and apply the provisions of section 9 of the principal Act in so far as same relates to disqualifications from being appointed as Tribunal members with the necessary changes.

Declaration of financial or other interests of members of Liquor Licensing Tribunal

16D. Sections 10 and 11 of the principal Act apply to the members of the Tribunal, with the necessary changes, except that such members must disclose their interests or any conflict of interest to the Board at each and every meeting.

Period of office of members of Liquor Licensing Tribunal

16E. (1) a member of the Liquor Licensing Tribunal holds office for such period, not exceeding three (3) years or such lesser period determined by the Board.

(2) A member is eligible for reappointment upon expiry of his or her term of office for one (1) additional term only.

(3) The Board may at any time call for proof to its satisfaction of the continued eligibility of any member or prospective member of the Liquor Licensing Tribunal or undertake or cause to be undertaken any investigation or enquiry in this regard.

Termination, removal, vacancies and resignation of a member of Liquor Licensing Tribunal or Dysfunctionality

16F. (1) A vacancy in the Liquor Licensing Tribunal occurs where a member–

(a) Submits a written resignation to the Board and is effective as of the date stated in the written resignation or such other date as is agreed upon between the Board and the member concerned;

(b) becomes disqualified from remaining a member of the Liquor Licensing Tribunal in terms of section 16C;

(c) has been absent from three consecutive meetings of the Liquor Licensing Tribunal without the prior written leave;

(d) term of office has expired;

(e) term of office is terminated by the Board subsequent to the Board following processes as contemplated in the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), as amended; and

(f) is no longer resident in the Province.

(2) Whenever a vacancy occurs in the Liquor Licensing Tribunal, the Board must subject to section 16B., fill such a vacancy for an unexpired portion of the period of the office of the member in whose place such a person is appointed; and

(3) In the event that the Liquor Licensing Tribunal established in terms of section 16A becoming non-operational due to failure to fill vacancies or non-attendance of members at meetings whereby the Liquor Licensing Tribunal is unable to fulfill its functions, will thereafter be deemed to be dysfunctional;

(4) subject to subsection (3) the Regulator must as an interim measure delegate the functions of the Liquor Licensing Tribunal to the CEO and immediately thereafter initiate proceedings to appoint a new LLT in terms of section 16B of this Act in order to ensure continuity of functions.,

Powers and Functions of Liquor Licensing Tribunal

16G.(1) The Liquor Licensing Tribunal must consider any of the following matters at its meetings including–

(a) any application referred to in terms of sections 41, 52, 55, 65, 66, 69, 72, 74, 75 and 77;

(b) objections and representations for or against the granting of licenses;

(c) any report submitted to it by South African Police Service, an inspector of the Liquor Authority, or any official of the Liquor Authority or any other interested party in respect of contraventions and transgressions of license conditions by license holders;

(d) any complaint lodged with it regarding the conduct of a licensed business;

(e) representation by a licensee or other interested person regarding the rescission of the suspension of a license or the removal or amendment of any condition imposed upon a license;

or

(f) consider applications to grant or refuse condonation;

(g) grant a temporary licence to a prospective owner, pending sale or transfer; and

(h) any other matter referred to it by the Chief Executive Officer or which it must consider in terms of this Act.

(2) except in respect of matters referred to in subsection (1)(a), the Presiding Officer has a discretion to consider a matter utilizing the Alternative Dispute Resolution Mechanism if in his or her opinion a hearing is not warranted by the information placed before him or her.

(3) The Liquor Licensing Tribunal may, after consideration by it of any matter contemplated in—

(a) subsection (1)(a) refuse or grant the application subject to such condition in accordance with the Act and must;

(i) issue a liquor licence as contemplated in Chapter 6 of Act, to impose conditions on such license and to amend, substitute or rescind any conditions;

(ii) refuse an application for a liquor license as contemplated in Chapter 6 with reasons;

(b) subsection (1)(b), (c), (d), (e) and (f)—

(i) dismiss the report, application or complaint, as the case may be;

(ii) issue a liquor license as contemplated in Chapter 6, to impose conditions on the issue of such a license and to amend, substitute or rescind any conditions;

(iii) suspend the license in the prescribed manner for an indefinite time or for such period as it may determine;

(iii) impose such conditions or such further conditions upon the licensee as he or she may deem appropriate;

(iv) rescind the suspension of the license concerned or any right or privilege which is attached thereto with immediate effect or from such date as it may determine or subject to such conditions as it may deem appropriate

(v) revoke or cancel an issued license where there has been breach of license conditions;

order the licensee to pay such fine as it may deem appropriate, subject to the prescribed limit;

or

(vi) take such other action as it may deem appropriate;

(4) The Liquor Licensing Tribunal may at any time upon application by a licensee, suspend, revoke or amend any condition imposed by it with regard to the license concerned.

(5) The Liquor Licensing Tribunal may co-opt, in respect of any matter and for such period as it deems necessary, any person to serve on it whom it deems able to assist it in considering the matter concerned, subject to section 16C.

(6) A person co-opted in terms of subsection (5) does not have the right to vote.

(7) The remuneration of any person co-opted in terms of subsection (5) must be determined by the Board.

(8) The Liquor Licensing Tribunal may constitute different sub-committees to preside over matters such as contraventions or other matters as prescribed.

(9) Members of the sub-committees as provided for in subsection (8) above may be co-opted as provided for in subsection (5),

Meetings and decisions of Liquor Licensing Tribunal

16H. (1) The Presiding Officer must determine the time and place for the holding of meetings of the Liquor Licensing Tribunal and may adjourn and reconvene meetings at such times and places as he or she may decide.

(2) A quorum for the meeting of the Liquor Licensing Tribunal is four (4) members including the Presiding Officer and Deputy Presiding Officer or both.

(3) A decision of the Liquor Licensing Tribunal is taken by a majority of the votes of the members present at its meetings, and in the event of an equality of votes on any matter, the Presiding Officer must cast the deciding vote in addition to his or her deliberative vote as a member of the Liquor Licensing Tribunal.

Recusal of member with conflicting interest

16I. (1) A member of the Liquor Licensing Tribunal may not vote, attend or in any manner participate in the proceedings of the Liquor Licensing Tribunal or in any of its meetings or hearings and the Presiding Officer may not consider a matter if he or she—

(a) is a close friend, family member, partner or business associate of the applicant for a license, certification, or any other privileged to be granted by the Liquor Licensing Tribunal or the Presiding Officer, as the case may be;

(b) or his or her close friend, family member or partner or business associate, is a director, member or partner of, or has a financial interest or any other interest in the privileged to be granted by the Liquor Licensing Tribunal or the Presiding Officer as the case may be; or

(c) has any interest which precludes him or her from performing his or her function as a member of the Liquor Licensing Tribunal in a fair, unbiased and proper manner.

(2) if at any stage it appears that a member or the Presiding Officer as the case may be, has or may have any interest contemplated in subsection (1) in relation to the matter to be considered by the–

Liquor Licensing Tribunal, that member must without delay and fully disclose the nature of his or (a) her interest and leave the meeting or hearing so as to enable the remaining members to discuss the matter and determine whether that matter is precluded from participating in the proceedings at such a meeting or hearing by reason of a conflict of interest and;

(b) Presiding Officer, he or she must without delay, fully disclose the nature of his or her interest to the Liquor Licensing Tribunal in which case it must consider the matter.

(3) The disclosure and the decision taken by the remaining members of the Liquor Licensing Tribunal, referred in subsection (2)(a) must be recorded in the minutes of the proceedings in question.

Proceedings of Liquor Licensing Tribunal

16J. (1) The Presiding Officer must subject to the provisions of this Act, conduct meetings of the Liquor Licensing Tribunal either through application or action proceedings as prescribed.

(2) The Presiding Officer must through the Liquor Authority notify, in the prescribed manner, any person who may be adversely affected in the consideration of any matter by the Liquor Licensing Tribunal, to be present at the meeting where the matter is to be considered.

(3) A person who has been notified in terms of subsection (2) must–
(a) attend the meeting, in person or be represented by an attorney, advocate or any other person appearing on his or her behalf; or
(b) elect not to be represented.

(4) If the Presiding Officer is satisfied that a person has been notified to appear at a meeting

of the Liquor Licensing Tribunal but is not in attendance, the Presiding Officer may direct that the meeting proceeds in the absence of that person or may take such other action as he or she deems fair and just in the circumstances.

(5) The Presiding Officer may cause any person to be summoned in the prescribed manner to be present at the meeting of the Liquor Licensing Tribunal to give evidence or produce a document or anything which is in his or her possession or custody or under his or her control.

(6) The Presiding Officer may order any person present at a meeting of the Liquor Licensing Tribunal to give evidence or to produce a document or anything which is in his or her possession or custody or under his or her control, and to be questioned by the Liquor Licensing Tribunal.

(7) The Liquor Licensing Tribunal may inspect and retain for such period as is reasonably necessary, any document or article produced to it.

(8) A person giving evidence at the meeting of the Liquor Licensing Tribunal must do so under oath or affirmation.

(9) In consideration of a matter the Liquor Licensing Tribunal may, of its own accord, take notice of any relevant fact or circumstance, which in its opinion may influence the decision of the Liquor Licensing Tribunal.

(10) If any party requests a postponement to enable it to prepare arguments with regards to the matter the Presiding Officer may, postpone that matter for this purpose for a reasonable period.

(11) All hearings conducted by the Liquor Licensing Tribunal are accessible to the public except that the Presiding Officer may, on reasonable grounds, direct that any person, whose presence at the hearing is not desirable, may not attend or must leave the meeting.

(12) The deliberations and decisions of the Liquor Licensing Tribunal are not accessible to the public.

(13) Failure to attend a hearing after having been summoned in terms of subsection (5) is an offence.

Committees of Liquor Licensing Tribunal

16K. (1) The Presiding Officer may appoint one or more committees which may consist of himself or herself or the Deputy Presiding Officer and any member or any person co-opted in terms of 16G(5).

(2) A committee must consist of at least three members.

(3) The Liquor Licensing Tribunal may delegate to a committee the functions of the Liquor Licensing Tribunal.

(4) The Liquor Licensing Tribunal may issue guidelines to a committee regarding the exercise of a power and the performance of a function it has delegated to the committee.

(5) A committee must in the exercise of a delegated power or the performance of delegated functions, comply with the guidelines referred to in subsection (4).

(6) In appointing members of a committee, the Presiding Officer must have due regard to the knowledge, expertise and experience required for the matter to be considered.

(7) A committee of the Liquor Licensing Tribunal is governed by the same rules of procedure as those pertaining to the Liquor Licensing Tribunal.”

Amendment of section 16 of Act 6 of 2010

Insertion of section 16Aa to 16Ac of Chapter 2 of Act 6 of 2010

9. The following section is hereby inserted after Section 16 of the principal Act–

Board Review Committee

16Aa. (1) There shall be an established Board Review Committee appointed by the Board of the KwaZulu-Natal Economic Regulator.

(2) Any applicant, license holder, or interested party who had been part of the original proceedings of the Liquor Licensing Tribunal or administration can apply via the Chief Executive Officer to invoke the review proceedings within 10 days of being informed of the decision of the Liquor Licensing Tribunal.

Functions of the Board Review Committee

16Ab. (1) To receive a report to invoke review proceedings of the Board Review Committee from the Chief Executive Officer.

(2) The Board Review Committee must receive the full application and supporting documents pertaining to the consideration of the application by the Liquor Licensing Tribunal.

(3) The Board Review Committee may consider the application either on application proceedings or conduct a hearing where necessary within 30 days from receipt of the review documents.

(4) On conclusion of the matter the Board Review Committee may substitute or retain the decision of the Liquor Licensing Tribunal.

Composition of the Board Review Committee

16Ac. (1) The Board Review Committee shall meet as and when there is an application for review process.

(2) The Board Review Committee shall constitute of 3 members appointed by the Governing Board of the KwaZulu-Natal Economic Regulator from amongst members of the Governing Board.

(3) The CEO or the representative of the KwaZulu-Natal Economic Regulatory Authority may attend and present at the Board Review Committee.

(4) The chairperson must have a legal qualification.

Amendment of Chapter 3 and Chapter 4 of Act 6 of 2010

9. Chapter 3 and Chapter 4 of the principal Act is hereby repealed and replaced by Chapter 4 and Chapter 5 of the KwaZulu-Natal Economic Regulatory Act.

Amendment of Chapter 5 of Act 6 of 2010

10. Chapter 5 of the Act is hereby repealed and every reference made to Local Committees in the principal Act shall be substituted by the reference to the Liquor Licensing Tribunal.

Amendment section 38 of Act 6 of 2010

11. (a) Section 38 is amended by the substitution of subsection (2) and the addition of subsection (3) of the following:

(b) Any person or a household which is found with large quantities of liquor without any possession of a special event permit shall be presumed to be selling liquor without a license until the contrary is proven;

(c) Any person who contravenes subsection (1) and (2) is guilty of an offence.”.

Amendment of section 39 of Act 6 of 2010

12. (a) Section 39(a) of the principal Act is hereby amended by–

(a) the addition after subsection (ix) of the following subsections:–

“(x) boat venues; and

(xi) wedding venues”.

(b) Section 39(b) of the principal Act is hereby amended by–

(a) the addition after subsection (ii) of the following subsection:

“(iii) online retail sale;”.

Amendment of section 40 of Act 6 of 2010

13. Section 40(1) of the principal Act is hereby amended by–

(a) the addition after subsection (g) of the following subsection:

“(h) is of foreign national and does not meet the requirements of the Immigration Act, 2000 (Act No. 13 of 2002), as amended.”.

Insertion of section 40A of Chapter 6 Part 1 of Act 6 of 2010**Prohibition of Liquor Outlets in Residential Areas**

14. “40A(a) No application for Liquor license shall be considered under the following circumstances: -

- (a) premises located within the prohibited radius of 0 to 100 metres to religious institutions;
- (b) premises located within the prohibited radius of 0 to 100 metres to learning institutions;
- (c) the proposed premises are not located within an area demarcated by the Municipality as an alcohol-free zone to which the public has or is granted access, (irrespective of whether access is granted against payment or is restricted to any categories of persons or not) as prescribed; or
- (d) any other prohibition as prescribed by notice in the government *gazette*.

(b) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.”

Amendment of section 41 of Act 6 of 2010

15. (a) Section 41(1)(a) of the principal Act is amended by the addition of (i) and (ii) as follows:

- (i) lodge an application with the Authority in a prescribed manner and on the prescribed days;
- and
- (ii) lodge a completed Public Interest Assessment application in the prescribed manner; and

(b) Section 41(2)(b)(ii) of the principal Act is hereby amended by–

(a) the addition after the words applicable codes, as amended;

(2) section 41(2)(b)(v) is hereby amended by the addition of the words “as prescribed” after the word issue.”

(c) Section 41(2)(g) of the principal Act is hereby amended by the substitution of subsection (g) for the following section:

“(g) [a certificate issued by the South African Police Service indicating the criminal offences of which the applicant has been convicted, if any], a certificate valid for a period of twelve months issued by the South African Police Service or an accredited Service Provider by the South African Police Service indicating criminal offences, if any”.

(c) Section 41(2)(h) of the principal Act is hereby amended by the substitution of subsection (h) of the following section–

“(h) a tax certificate issued by the South African Revenue Service valid for a period of twelve months indicating whether the applicant is registered as a taxpayer; and whether the taxes are outstanding;”.

(d) Section 41 of the Principal Act is hereby amended by insertion of subsection 41(2A) with the following addition:

- (a) a person who wishes to apply for a liquor license in respect of a category for off-consumption under section (39)(b)(iii) for online retail sale of liquor where Liquor products are sold from their own store facility must comply with the requirements of section (41)(1) and (2);
- (b) any person who wishes to deliver any liquor product purchased through an online trade transaction must comply with section 41(2)(c), (d), (g), section 71 and the regulations;

(e) Section 41 of the principal Act is hereby amended by the insertion of section 41(4)A:

“41(4)A if the applicant fails to meet the requirements as set in subsection (4), the Chief Executive Officer must consider this as an incomplete application and thereafter close the application and inform the applicant accordingly.”.

Amendment of section 42 of Act 6 of 2010

16. (a) Section 42(1)(b)(i) of the principal Act is hereby amended by the addition of the following words:

(i) in at least one newspaper circulating widely in the area which the licensed premises will be located, or digital platforms prescribed by the Board from time to time;

(b) section 42 is hereby amended by the substitution of subsection (4) of the following subsection:

“(4) the relevant [local committee] Authority to whose jurisdiction the application was lodged and Station Commissioner must within the period of 21 days allow any person to inspect and copy the application upon payment of the prescribed fee and where an applicant wishes to make copies of the application, such request should be made to the Authority in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

(c) the addition after subsection (4) of the following subsection:

“(5) the applicant must not conduct public participation without the notification from the

Authority.”.

Amendment of section 44 of Act 6 of 2010

17. Section 44 of the principal Act is hereby amended by the substitution of subsection (2) of the following subsection:

“(2) if the applicant fails to comply with the notice referred to in subsection (1)(b), the secretariat of [local committee] Authority to whose jurisdiction the application was lodged must **[decline the application and]** inform the applicant, and **[the Chief Executive Officer]** Authority accordingly, that the application remains incomplete and must be set aside.”.

Amendment of section 45 of Act 6 of 2010

18. Section 45 of the principal Act is hereby amended by the substitution of subsection 45(1) of the following subsection:

“(1) **[On expiry of]** concurrently with the period referred to in 43(1) and (4), the secretary of the **[local committee]** Authority to whose jurisdiction the application was lodged must **[direct]** inform and request an inspector as contemplated in section 81(1)(a) to **[carry out]** conduct an inspection to **[determine]** confirm and or verify–

“(b) the proximity of other licensed premises, learning and religious institutions within the **100** metres radius **[circumference area]** to the proposed premises; and;

(bb) must inform the Local Municipality and the Local SAPS of the said application and invite their comments on the application in writing.”.

Amendment of section 46 of Act 6 of 2010

19. (a) Section 46 of the principal Act is hereby amended as follows:

“Consideration of application by the [local committee] Liquor Licensing Tribunal”.

(b) On receipt of the report from the inspector referred to in section 45(2), the **[local committee]** secretariat of the Authority to whose jurisdiction the application was lodged, must

consider the application, taking into account the following—”.

Amendment of section 48 of Act 6 of 2010

20. (a) Section 48(5) of the principal Act is hereby amended by the deletion of subsection (5)(e).

(b) Section 48(5)(f) is hereby amended as follows:

(f) the proposed premises is not located within **[a circumference of] 100 metres radius** of other licensed premises under the same category within residential areas.

(c) section 48(6)(a) is hereby amended as follows:

“(a) the prejudice or harm, or potential prejudice or harm, of the proposed license to or on residents, property owners, other businesses, including licensed liquor premises, property values, schools and religious institutions, with a radius of **100 meters** surrounding the proposed premises or in close proximity thereto within residential areas only; and”.

Amendment of section 49 of Act 6 of 2010

21. Section 49 of the principal Act is hereby amended by the substitution of subsection (4) for the following subsection:

“(4) if at the time of the lodgement of the application, the premises were not complete, an inspector must conduct a final inspection of the premises on its completion and submit the final report to the Liquor Authority.”.

Amendment of section 50 of Act 6 of 2010

22. (a) section 50(1) of the principal act is hereby amended as follows:

“50.(1) the holder of a licence for retail sale of liquor for consumption on the premises must ensure—

(a) that liquor sold is consumed on the licensed premises and is not removed from such premises; and

(b) that the total number of patrons permissible on the licenced premises is compliant with the provision of the municipal by-laws pertaining to occupation of buildings as well as the provisions of the Regulations of Gatherings Act, 1993 (Act No. 205 of 1993), as amended.”

(b) Section 50(2)(a) of the principal Act is hereby amended by the addition of paragraph:

(aa) that the license holder of an off-consumption license must apply to the Liquor authority in a prescribed manner for consent to open ~~the~~ a container containing liquor for the purposes of tasting only;”

(c) Section 50(4) of the Principal Act is hereby amended as follows:

“(4) A licensed person [may] must not lease the license to any person or allow any person to carry on business in terms of the license.”

(d) Section 50 is hereby amended by the insertion of subsection 50 (13A), the Holder of the off-consumption liquor license, for online retail sale as referred to in terms of section 39(2)(a)(iii) must ensure–

(i) that liquor for online retail purposes is only purchased from a licensed retailer, licensed in terms of this Act; or

(ii) that liquor for online retail purposes is only purchased from a licensed retailed trader, licensed in terms of any other applicable Liquor Act;

(iii) the provisions of section 71 will be applicable to online retail sale; and

(e) Section 50(13) is hereby amended by the insertion of “any person who fails to comply with subsection (1) to (13A) is guilty of an offence.”.

Amendment of section 52 of Act 6 of 2010

23. (a) Section 52(1) of the principal Act is hereby amended by the insertion of subsection (c) and (d) of the following section-

” (c) if an application is late, a penalty fee equivalent to the lodgement fee must be paid for each day the application is late;

(b) Section 52 of the principal Act is hereby amended by the deletion of subsection (2).”.

Amendment of section 58 of Act 6 of 2010

24. Section 58 of the principal Act is hereby amended by the substitution of subsection (4) of the following subsection:

“(4) if at the time of the lodgement of the application, the premises were not complete, an inspector must conduct a final inspection of the premises on its completion.”.

Amendment of section 60 of Act 6 of 2010

25. (a) Section 60(1)(b) of the principal Act is hereby amended by the substitution of paragraph (b) of the following paragraph:

“(b) distribute the liquor that it has manufactured in terms of an applicable distribution license to—;”.

(b) section 60(5) of the principal Act is hereby amended as follows:

“(5) A micro-manufacture [may] must not lease the license to any person or allow any person to carry on business in terms of the license.”.

Amendment of section 61 of Act 6 of 2010

26. Section 61(6) of the principal act is hereby amended as follows:

“(6) the responsible Member of the Executive Council must in the prescribed manner consider an appeal lodged in terms of subsection (1) within [30] 60 days of receipt of such appeal.

Insertion of section 62A of Chapter 6, Part 6 of Act 6 of 2010

27. The following section is hereby inserted after Section 62 of the principal Act—

” Establishment of Social and Awareness Fund

62A. (1) The Liquor Authority must establish a Fund for the purposes of–

- (a) combating the negative social and economic impact of alcohol abuse;
- (b) training people involved in the sale and supply of liquor including their employees by creating awareness of the responsible sale and supply of liquor; and
- (c) raising awareness in the general public with regards to responsible consumption of liquor.

(2) The Chief Executive Officer must, after consultation with the Board, provide the terms of reference for and administer the Fund referred to in subsection (10).

(3) The budget of the Fund must be included within the budget of the Board that must be submitted in accordance with the Public Finance Management Act, 1999.

(4) A portion of revenue as prescribed in Annexure B of the fee Schedule, generated through new licenses issued and annual renewals and payment for fines and penalties received will be directed towards the Fund.

(5) The Chief Executive Officer must, in consultation with the Board and the Member of the Executive Council responsible for Finance in the Province, open an account for the Fund in the name of the Board with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990)."

Amendment of section 64 of Act 6 of 2010

28. (a) Section 64 of the principal act is hereby amended by the substitute of the heading [Annual Fee] with the heading, Renewals and Annual Fee.

(b) section 64(2) is hereby amended as follows:–

“(2) All licence holders where licences that are due for payment of the fees as contemplated in subsection (1) must, in compliance with the provisions of section (2)(d) read with section 4(d) of the Act, and in the prescribed manner–

- (a) apply to the Liquor Authority, for an evaluation of the original licence, six (6) months prior to the expiry of the validity of the licence ;

- (b) [ensure that the application referred to in subsection (a) is made six (6) months prior to the expiry of the validity of the licence; and];
- (c) on a annual basis the licensee must:
 - (i) ensure that the original licence conditions issued by the Liquor Authority, are retained;
 - (ii) verify that the criteria listed in section 41(2) and 55(2) are still prevalent as prescribed;
 - (iii) submit annual financial statements validated and signed off by an accredited financial accountant.”

(3) Validity period for renewed licenses will be three (3) years subject to compliance with subsection 64(2)(c).

(4) Non-compliance by the license holder with subsection (2) will result in an automatic lapse of a license.

(c) section 64(3) is hereby amended as follows:

“(3) The Chief Executive Officer [must] may within 14 days of receipt of the application as contemplated in subsection (2)(a), request an inspector to inspect the premises to verify the existence of the original conditions of the licence.”

(d) section 64(4) is hereby amended as follows:

“(4) An inspector [must] may conduct an inspection contemplated in subsection (3) in respect of licences issued in terms of section 41 and section 55 and verify the following information–

- (a) the criteria as listed in section 41(2) or section 55(2) are still prevalent;
- (b) the special conditions as contemplated in section 50 or section 60(1) where applicable read with the general conditions attached to the licence are still prevalent.”

(e) Section 64(12) Of the Principal Act is hereby amended as follows:

“(12) The penalty for each month, or part of each month that the annual fee is overdue, will be the amount equal to the prescribed annual fee, subject to a maximum penalty of [three] six times the annual fee.”;

(f) Section 64(13) is hereby amended by the substitution of the for subsection (13) of the following subsection:

“(13) if the annual fee, together with the penalty referred to in subsection (12), is not paid during the [fourth] sixth month after the annual fee is due, or the previous of subsection (9) are not complied with, the Liquor Authority must instruct the Chief Executive Officer to [, **subject to the relevant provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)**]-

- (a) cancel the license in question;
- (b) endorse the register accordingly; and
- (c) notify the licensed person in writing of the cancellation, the reasons for the cancellation and the date of the cancellation.”.

Amendment of section 66 of Act 6 of 2010

29. Section 66(1) of the principal Act is hereby amended as follows:

“(1) the Liquor Authority may on its accord or on application by an interested person in the prescribed manner and subject to the provisions of The Promotion of Administrative Justice Act, 200 (Act 03 of 2000), as amended, cancel a license where the Liquor Authority is satisfied that the license has not been trading in the manner contemplated by the license for a continuous period of 12 months.”

Amendment of section 70 of act 6 of 2010

30. Section 70 of the Principal Act is hereby repealed.

Amendment of section 74 of Act 6 of 2010

31. (a) Section 74(1) of the principal Act is hereby amended by the addition of subsection (a) and “(b) a prospective holder may apply to the Liquor Authority to be appointed as an interim license holder, subject to compliance with the requirements of section 40 of the principal Act, pending the finalization of the application in terms of subsection (1);

(b) section 74(3) of the principal Act is hereby amended by the substitution of reference to **[certificate of transfer]** to a License.”.

Amendment of section 71, 72, 76, 77, 78, 79, 82 of Act 6 of 2010

32. (a) Section 71(1) and (2), 72(1), 75(1), 76(1) and (2), 77(1) and (2), 78(1) and (3), 79(1) and (3) and 82(1) and (2) of the principal Act is hereby amended by the substitution of the phrase **[may]**, with must;

(b) Section 72(1)(b) of the principal act is hereby amended as follows:

“(a) materially change the nature of the business in respect of which the license was granted from that described in the application considered by the liquor authority when granting the license [or];

(c) section 76(1)(d) of the Principal Act is hereby amended as follows:

(d) allow a person under the age of 18 years (unless accompanied by an adult) to be in a part of the licensed premises upon which such a person may not be in terms of this Act, or in terms of a condition of the license save for the persons who are being trained at such licensed premises; or”;

(d) Section 76(2) of the principal Act is hereby amended as follows;

“(2) A person under the age of 18 years [may] must not in respect of licensed premises-

(a) obtain or consume liquor in contravention of this Act; or

(b) mislead any person as to his or her age in order to obtain or consume liquor or to gain access to parts of licensed premises which such person may not enter.”.

Insertion of section 77A of Chapter 7 of Act 6 of 2010

33. The following section is hereby inserted after Section 77 of the principal Act–

” Keeping of Financial Records and Provision of Annual Financial Statements by a Licensee

77A. (1) A License Holder must keep financial records and annual financial statements for the purpose of–

- (a) Determining applicable license fees and annual renewals for a liquor outlet;
- (b) monitoring the financial viability of licensed premises; and
- (c) other financial accounting requirements review procedures.”

Amendment of section 78 of Act 6 of 2010

34. (a) Section 78(4) of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:-

“(4) A licensed person or permit holder who sells, supplies liquor at a time when the sale of liquor is not permitted by the license or permit, is guilty of an offence.”.

(b) section 78 of the Principal Act is hereby amended by the addition of subsection (6) as follows:

(6) A licensed person may on application as prescribed, and subject to the payment of the application costs, apply to the Authority for an extension of trading hours during seasonal periods only, up to a maximum of two (2) addition hours in addition to the hours as per prescribed in Schedule 3 of the Act.

(7) Applications granted subject to subsection (6) above, would be for a limited duration as prescribed by the Authority.”

Amendment of section 81 of Act 6 of 2010

35. “Section 81(1) of the Principal Act is hereby amended by the substitution of the following:

(1) The [responsible Member of the Executive Council] Chief Executive Officer-.”

Amendment of section 82 of Act 6 of 2010

36. (a). Section 82(1)(b) of the principal Act is hereby amended by as follows:

“(a)(ii) in respect of applications contemplated in terms of section 41, [52] 55, 72, and 75.”

(b) Section 82(1)(b) of the principal Act is hereby amended by the addition in subsection (1)(b) of sub-paragraph (iv) of the following subsection:

“(v) issue a fine on the spot where a contravention of section 50(1) to (11) and (13A); 60(1), (3), (5); 63(2) paragraph (a), (b), (c); 71(1), (2); 72(1); 73(1), (2); 74(1); 78(1), (3), (4); 79(1), (3); and 80(1) of Act by a license holder has occurred.

(c) section 82(2) is hereby amended by the substitution of paragraph (h) to paragraph (i) as follows:

(h) close down a liquor outlet on the spot on the account of non-compliance.”.

Amendment of section 87 of Act 6 of 2010

37. Section 87(1) of the principal Act is hereby amended as follows:

“87.(1) Any person who is in possession of any document relevant to an inspection or investigation, must produce such document at the request of the inspector.”.

Amendment of section 89 of Act 6 of 2010

38. (a) Section 89 of the principal Act is hereby amended by the substitution for section 89(2)(d) of the following subsection:

“(d) the date by which the compliance must be completed, which shall not exceed a period of 21 days from the date of the breach; and

(b) Section 89 of the principal Act is hereby amended by the addition of the following subsection:

“4A (a) A request for the extension of the compliance notice must be made in writing at any time up to three (3) days before the expiration of the 21-day period; and

(b) the inspector will consider the request for an extension and communicate the outcome of the extension request to the licence holder in writing within two (2) days from the date of the request.

(c) Section 89(8) of the principal Act is hereby amended as follows:

“(8) In making the determination as contemplated in subsection (7), the procedure as set out of [44] 43, read with the necessary changes, must be followed.”.

Insertion of section 89A of Chapter 8 of Act 6 of 2010

39. The following section is hereby inserted in the principal Act after section 89:

“Condonation

89A. (1) A licence holder who fails to comply with the timeframes as set out in section 49(3); 58(3); 64(13); and 89(12), must within 21 days of the lapse of the period referred to in the said sections, lodge an application for condonation with the Liquor Authority.

(2) The Liquor Authority may and on good cause consider an application by a licence holder in the prescribed manner for condonation and such circumstances where the licence holder was unable to fulfill the requirements as prescribed in section 49(3); 58(3); 64(13); and 89(12).

(3) In consideration of the application contemplated in subsection (1), the Liquor Authority must consider-

(a) receive all applications;

(b) endorse on each application the date of receipt; and

(c) schedule the applications for consideration by the Liquor Licensing Tribunal.

(3) The Liquor Licensing Tribunal must consider-

(a) the period of the delay in complying with the provisions in subsection (1); and

(b) reasons submitted by the applicant.

(5) If the liquor Licensing Tribunal determines that the application is reasonable and compliant it may-

- (a) grant an extended period for compliance not exceeding a period of six (6) months;
(b) refuse the application; and
(c) communicate the decision to the applicant.”.

Amendment of section 93 of Act 6 of 2010

40. Section 93(1) of the principal Act is hereby amended as follows:

(1) No person [may] must– “.

Section 93(1)(d) is amended by:

(a) the addition in subsection (1)(d) of the following

“(d) drink [be intoxicated, violent or disorderly] in a public place;”.

(a) the addition of the following paragraphs after subsection (1)(i):

(j) sell illicit or expired liquor on the licensed premises.”

Amendment of section 95 of Act 6 of 2010

41. Section 95(1) of the principal Act is hereby amended as follows:

“(1) No person [may] must sell liquor in a convenient store **[franchised]** located [to] at a service station selling petrol, diesel or other petroleum products to the public.”.

Amendment of section 96 of Act 6 of 2010

42. (a) Section 96 of the principal Act is hereby amended by the addition of “and Contraventions” to the heading.

(b) Section 96(1) is of the principal Act is hereby amended by:

(a) the addition of section 48A(1) and 50(13) to the list of offences; and

(b) the adding the words “as prescribed in terms of the Criminal Procedure Act” after the word, “imprisonment.”.

Amendment of section 99 of Act 6 of 2010

43. Section 99 of the principal Act is hereby amended by the addition of subsection 99(1)(u), (v) and (w):

“(u) by notice in the provincial government *gazette*, revise the fees for application of licenses, renewals and for the registration of Liquor Licensing Consultants on an annual basis”.

(v) prescribe guidelines and a fee structure to regulate the transportation of liquor within KwaZulu-Natal facilitated through an online retail sale, where the transportation of liquor is not the core business of the transporter.”

(w) guidelines and Code of Conduct to regulate Liquor Licensing Consultant who provides administrative services on behalf of the Liquor Traders and Applicants with the Liquor Authority;”.

Short title

44. This Act is called the KwaZulu-Natal Liquor Licensing Amendment Act, 2024.

Amendment of Schedule 3 of Act 6 of 2010

SCHEDULE 3

Trading days and trading hours

(Section 78)

45. Schedule 3 of the principal Act is hereby amended by the addition of Airports premises trading hours both Category A: On-Consumption and Category B Off-consumption as follows—

CATEGORY A: ON-CONSUMPTION	TRADING HOURS	TRADING DAYS
10. AIRPORTS PREMISES	TRADING HOURS	TRADING DAYS
<u>10.1. International Airports</u>	<u>24h00</u>	<u>Monday – Sunday including Public Holidays</u>
<u>10.2. Domestic Airports</u>	<u>06h00 -22h00</u>	<u>Monday – Sunday including Public Holidays</u>
CATEGORY B: OFF-CONSUMPTION	TRADING HOURS	TRADING DAYS
3. AIRPORTS PREMISES		
<u>3.1. International Airports</u>	<u>24h00</u>	<u>Monday – Sunday</u>
<u>3.2. Domestic Airports</u>	<u>08h00 -20h00</u> <u>08h00-17h00</u> <u>10h00-15h30</u>	<u>Monday –Friday</u> <u>Saturday</u> <u>Sunday</u>

SCHEDULE 4**Fines on contraventions relating to Chapter 6 to 9, of Act 6, 2010***(Section 93, as amended)*

46. Schedule 4 of principal Act is hereby added as follows–

CONTRAVENTIONS OR OFFENCES	MINIMUM AND MAXIMUM FINES	POSSIBLE IMPRISONMENT TERM
Section 60(1), (3) and (5): Micro-manufactures	Up to R1, 000, 000.00	Up to five (5) years
63(2)(a), (b) and (c): Effects of Licensing	Up to R500, 000.00	Up to two and half years
71(1) and (2): Deliveries	Up to but not exceeding R100, 000.00	A period not exceeding six (6) months
72(1): Alterations of Licensed premises or nature of business	Up to R500, 000.00	Up to two and half years
73(1) and (2): Storage of Liquor	Up to but not exceeding R100, 000.00	A period not exceeding six (6) months
78(1) and (2): Trading days and Trading hours	Up to but not exceeding R100, 000.00	A period not exceeding six (6) months
79(1) and (3): Limitations on employees	Up to a maximum of R1, 000, 000.00	Up to five (5) years
80(1): Place of Sale	Up to R500, 000.00	Up to two and half years
90(2), (3) and (4):	Up to R50, 000.00	Up to three (3) years