

# FINAL NATIONAL LIQUOR POLICY PRESENTATION

to the Select Committee on Trade and International Relations

**Date:** 30 November 2016  
**Venue:** Parliament, Cape Town  
**Presenter:** M Netshitenzhe, Acting Deputy Director-General  
C Makaepa, Director: Liquor Law & Policy



**the dti**

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA



# PURPOSE

**To brief the Select Committee on Trade and International Relations (Select Committee) on the National Liquor Policy 2016, as published for public information on 30 September 2016**



**the dti**

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

# BACKGROUND

**Liquor Act 59 of 2003** regulates the liquor industry (manufacturing and distribution) in South Africa

In May 2015 the draft policy review document was published for public consultation, after Cabinet approval.

In 14 September 2016, the National Liquor Policy 2016 was approved by Cabinet and published for public information on 30 Sept 2016.

In 2010 the President established the **Inter-Ministerial Committee** (IMC) on Combating Substance Abuse chaired by the Minister of Social Development

In 2013 **DNA Economics** commissioned by the dti produced a report on the effectiveness of the Act which highlighted serious gaps.

In 2011 the **2<sup>nd</sup> Biennial Substance Abuse Summit** was convened at Ethekwini leading to various resolutions



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

# Introduction

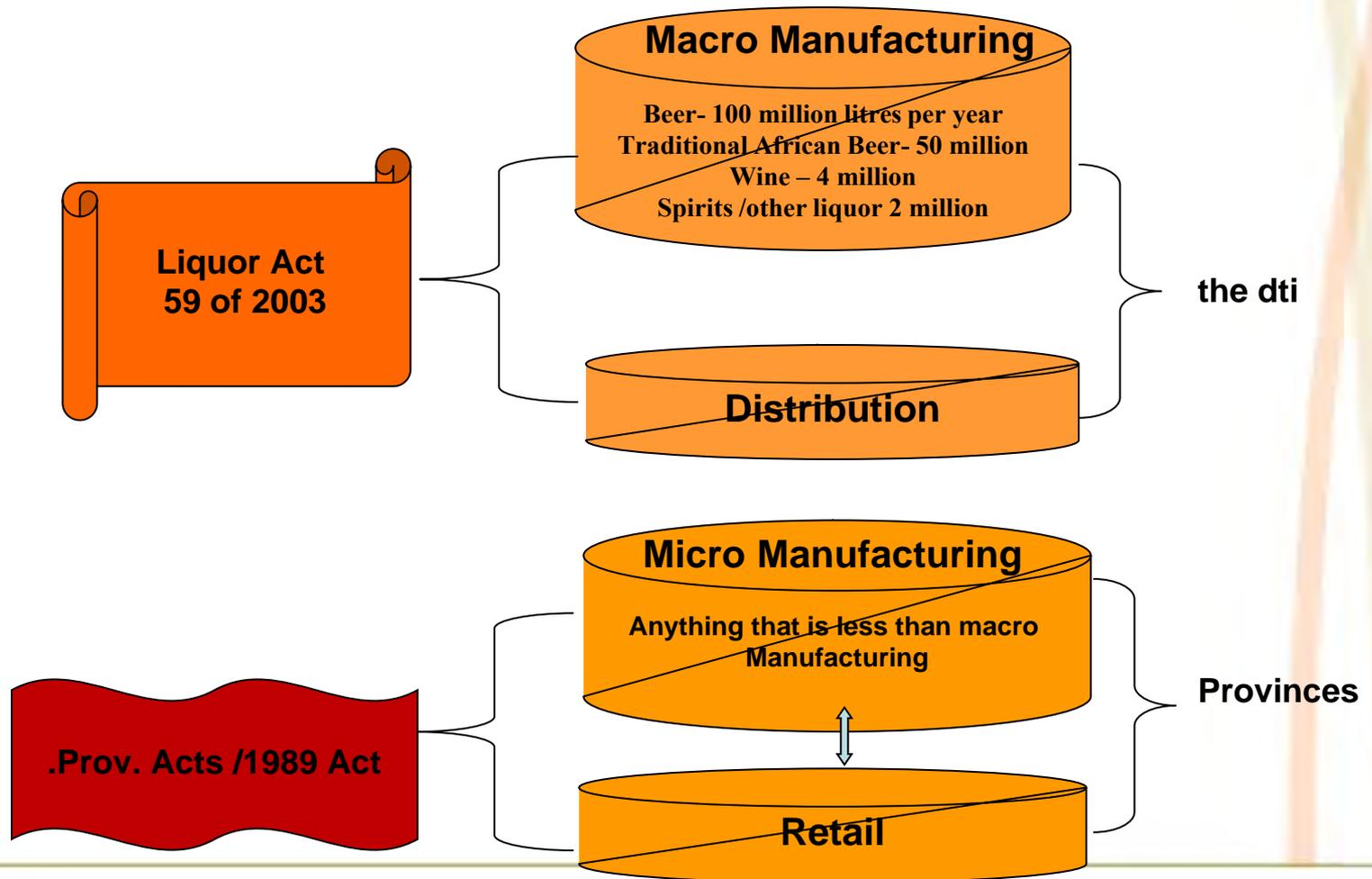
- The **Liquor Act, 59 of 2003** regulates macro-manufacturing and distribution of liquor.
- The main objectives of the Liquor Act are:
  - ❖ addressing and *reducing the socio-economic costs* of alcohol abuse in South African society; and
  - ❖ restructuring the liquor industry to promote wider participation and *encourage transformation*.



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

# Liquor Regulatory Framework



**the dti**

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

# Regulatory Framework

- Liquor regulation in South Africa is subject to ***concurrent jurisdiction*** and requires ***cooperative governance*** to be effective.
- NLPC is a structure created by ***section 37*** to coordinate concurrent jurisdiction to ensure ***policy consistency, alignment and harmony***.
- NLPC comprises of the ***Minister*** (national government) and relevant provincial ***MECs*** (provincial government), and is chaired the the Minister.
- ***National Liquor Authority*** (macro manufacturers and distributors) and ***Provincial Liquor Boards*** (micro-manufacturers and retailers) implement respective legislation.

# Socio-economic impact of liquor abuse

## Challenge

Alcohol abuse is on the increase, leading to increasing levels of conflict in the family, violence, crime and alcohol related diseases, sexual violence and high-risk sexual behaviours, as well as road accidents. Further, South Africa has one of the highest rates of foetal alcohol syndrome (FAS) in the world.

Alcohol is estimated to cost South Africa R37.9 billion annually. This includes costs around health care, crime and social welfare, alcohol treatment and prevention and road traffic accidents.

## Policy position

### Advertising

- There is a need to reduce liquor advertising as studies shows that young people who are exposed to alcohol marketing are more likely to start drinking, or if already drinking, to drink more.
- The Minister of Trade and Industry is empowered through amendment to Section 9 (advertising restrictions) of the Act to determine more restrictions and parameters for advertising and marketing of liquor products.



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

# Socio-economic impact of liquor abuse

Challenge	Radius
<p>Research found that increases in alcohol availability contribute to increases in alcohol consumption, which contribute to increased alcohol-related problems. Therefore, regulating the density of alcohol outlets is an effort to minimise excessive alcohol consumption and related harms.</p>	<ul style="list-style-type: none"><li>• Liquor premises must be located at least five hundred meters (500m) away from schools, places of worship, recreation facilities, residential areas, public institution, petrol service stations; premises attached to petrol service stations; and premises near public transport.</li><li>• However, the licensed premises within the 500m radius and premises within high density locations will have to comply with the Norms and Standards for amongst others, trading hours, noise, nuisance and pollution. Licensing authorities with their discretion may impose tighter trading conditions</li></ul>



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

# Socio-economic impact of liquor abuse

## Trading hours

To reduce the availability of liquor, there is a need to regulate days and hours when alcohol sales should be permitted. The set uniform trading hours within the norms and standards should be integrated in national, provincial and municipal legislation.

## Age verification

The licensees, manager or any other person dispensing liquor at the premises must take steps to ensure verification of the age of any person who appears to be under the age of 21 by requesting an identity document, passport or driver's license.



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

# Socio-economic impact of liquor abuse

## Liability

- Manufacturers and suppliers have a responsibility to ensure that liquor products are not supplied to unlicensed traders.
- Where liquor is supplied to illegal traders, the traders' involved, suppliers and manufacturers should be held responsible if harm or damage ensues to the patrons within or near to the premises where such illegal liquor was being traded.

## Intoxicated persons

- Traders should not serve liquor products to already intoxicated persons. Should that happen and the intoxicated person is involved in motor accidents or crime related to substance abuse, the trader should bear liability for any harm or damages within or near the premises. In both cases, the burden of proof will shift from the state to the respondent.



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

# Socio-economic impact of liquor abuse

Challenge	Age
<p>Research shows that teenage drinking is on the increase and that the younger people start drinking, the more likely that they will experience problems from heavy drinking at a later stage, e.g. exposing adolescent brain to alcohol may impair neurological development causing youth to make irresponsible decisions, encounter memory lapses.</p>	<ul style="list-style-type: none"><li>• Review of the national minimum legal drinking age from 18 to 21 years. This is to delay as much as possible the initiation of liquor consumption by youth.</li></ul>
	<p><b>Education and awareness</b></p> <ul style="list-style-type: none"><li>• There is a need to intensify education and awareness among all levels of society about the harms of alcohol abuse. Licence holders (manufacturers, distributors and retailers) need to be constantly educated on the Liquor legislation in order to comply and avoid irresponsible trading.</li></ul>



# Transformation in the liquor industry

Challenge	Policy position
<p>The South African liquor industry is currently still predominantly white-owned, owing to a large extent to the fact that its past regulatory regime has led to highly concentrated ownership patterns and subsequently high barriers to entry.</p>	<ul style="list-style-type: none"><li>• <b>the dti</b> has published the amended B-BBEE Codes of Good Practice, which assist in guiding the B-BBEE requirements for applicants. The NLR is empowered to impose allowed registration conditions as articulated in the amended B-BBEE Codes of Good practice and implement strict monitoring measures.</li><li>• Non-compliance to the B-BBEE Codes should result in the suspension or revocation of the registration certificate. The level of B-BBEE in the license requirements will be determined in the regulations to be prescribed by the Minister.</li></ul>



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

# Standardising aspects of regulation and improve regulatory collaboration

Challenge	Policy position
<p>Differences in provincial and national liquor legislation in South Africa certainly worsen The complexity of enforcement processes.</p>	<ul style="list-style-type: none"><li>• The norms and standards as adopted by the Council should be integrated in both national and provincial legislation and regulations, to ensure coherence and harmony.</li><li>• Provincial and national bodies (including NLR, Municipalities, DAFF, SARS, SAPS, Health, DoJ&amp;CD) need to work together to coordinate regulatory response, share data and ensure the success of enforcement activities.</li><li>• Departmental inspectorates must act in a coordinated manner with SAPS, SARS, DAFF, Health as well as provincial inspectorates.</li><li>• There is a need for a coordinated training programme for inspectors and <b>the dti</b> must take the lead in this matter.</li></ul>

# Regulatory capacity within the NLR

Challenge	Policy position
<p>Currently, the NLA is a chief directorate within <b>the dti</b> to which the Minister of Trade and Industry delegated powers in terms of the Act to regulate the manufacturing and distribution of liquor, registration, education and enforcement. The NLA is currently under resourced to effectively perform monitoring and enforcements roles.</p>	<ul style="list-style-type: none"><li>• NLA will be restructured to become a National Liquor Regulator (NLR),</li><li>• The NLR should be fully capacitated with human resource to monitor and enforce not merely the licensed traders but the trade of liquor holistically,</li><li>• The National Liquor Regulator will be directed by the Chief Executive Officer, who will be appointed by the Minister and report to the accounting officer of the Department of Trade and Industry,</li><li>• The NLR will be funded through normal budgetary process.</li></ul>



**the dti**

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

# Internal Review Mechanism

## Challenge

Currently, whenever there is a dispute with regards to liquor administrative issues, these are referred to the courts. This process is often lengthy, costly and highly inconvenient.

## Policy position

- Internal review mechanism will be introduced to deal with aggrieved applicants. This will reduce the legal cost for traders and reduce cost of doing business.
- The internal review mechanism is introduced to help those who cannot afford legal expenses to be able to have their cases adjudicated efficiently and effectively, and to provide speedy redress.
- However, if the applicant is still aggrieved after this process they may approach the court of law for relieve.



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

# Effective National Liquor Policy Council (Council)

Challenge	Policy position
<p>The inability to secure quorum to Council meetings has resulted in the cancellation of numerous meetings in the past, a situation that has delayed the finalisation of numerous Council matters</p>	<ul style="list-style-type: none"><li>• To improve the effectiveness of Council, the Council should be empowered to take binding decision on the particular matter if there is no quorum in two consecutive meetings.</li><li>• The Council shall take a binding decision in the third meeting, whether the meeting reaches a quorum or not.</li></ul>



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

# CONCLUSION

It is believed that the policy position in the National Liquor Policy 2016 will ensure that regulation of liquor industry will continue to be conducted in an efficient and effective manner.

The National Liquor Policy 2016 will inform the amendment of the current National Liquor Act.



**the dti**

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

# Thank you!



the dti

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA