COVID-19 Q&A: SALE, DISPENSING AND TRANSPORTATION OF LIQUOR – WINE, SPIRITS AND OTHER FERMENTED BEVERAGES (Level 3)

Government confirms the detail around domestic sales of liquor beverages (including wine), as per the Government Gazette published on 28 May 2020.

During the media coverage it was highlighted that the, “liquor industry has opted to self-regulate when outlets reopen”, and we would like to draw attention to the following.

As the sale of alcohol reopens under alert level 3 on 1 June 2020, the sector calls on all stakeholders — including Government and civil society groups – to work towards a collaborative, enabling policy environment in which the private sector can play a significant role in tackling COVID-19, while regenerating the economy and safeguarding the future of the industry’s value-chain and those who are employed by it.

We deem it appropriate to also update and include relevant areas/services pertaining to the producer and cellar environment, some of which was already covered in a previous Q&A (related to export and inspection/quality control). You will therefore notice a comprehensive set of questions and answers.

1. **BACKGROUND**

Following from the Government Gazette (GG) No. 43096 on 15 March 2020, and in terms of section 27(2) of the Disaster Management Act 2002, the regulations published by GG No.480 of 29 April 2020, has been amended by Government Gazette No. R43364, Volume 659 of 28 May 2020.

In a welcome development, the format of the regulations have reversed where permitted sectors and activities are concerned. In other words, all economic activities will now be permitted unless they are specifically excluded in the new Table 2 (page 21). Table 2 prohibits the following:

- Consumption of food and beverages at the place of sale, including restaurants;
- On-site consumption of liquor;
- Short-term home-sharing, letting, leasing or rental for leisure purposes;
- Domestic air travel for leisure purposes;
- Conferences and events, including sporting events;
- Personal care services; i e hairdressers, beauty treatments etc;
- Tourist attractions and entertainment, except to the extent provided for otherwise by the Minister of Tourism.
All other economic activities can resume subject to the health and safety protocols. Limitations relating to scaling up of manufacturing and other economic activities, have been done away with.

Sections and regulations applicable to the liquor industry (including wine) will be highlighted as per the relevant paragraph(s), together with our interpretation. The key section being:-

CHAPTER 4 ALERT LEVEL 3 (paragraph 44, page 15)

1) Liquor product sales may take place between **Mondays and Thursdays**, from **09h00 until 17h00**, at any licenced premises;
2) No liquor may be consumed on premises, but all licence holders may sell liquor during the designated hours;
   - Premises licenced for on-site consumption may also sell liquor in sealed containers for take-home purposes;
3) Liquor may be transported and distributed to any licenced premises from **29 May 2020**.

2. SAFETY PROTOCOLS (PRODUCER, WINERIES & MANUFACTURING)

Prior to moving into specific detail around local liquor sales (including exports, already activated from 1 May 2020), it is of utmost importance that every producer, management team and board of directors pay close attention to the health and safety precautions from producer level to cellar door, wineries, manufacturing, distribution and any other related services in the supply-chain.

The Department of Employment and Labour will conduct unannounced inspections. As the country, province, local district and the liquor industry at large can’t afford to revert back to higher lockdown levels, we must work hand in hand to ensure we flatten the transmission curve and progress to even lower alert levels.

It is also very clear that relevant health protocols and social distancing measures must be adhered to, in addition to the OHS-directions issued by the Department of Employment and Labour. The following **HEALTH AND SAFETY PROTOCOLS** have been designed and we trust all entities to implement and execute accordingly.

Conducting a **risk assessment** is of utmost importance. To this end you will find in both protocols (producer level and manufacturing) a risk assessment sheet – to be completed on the likelihood, exposure and consequence of the **pathogen** (COVID-19) in the business entity. For ease of reference you can fill out a **blank risk assessment** (Excel sheet) and include in the current risk assessment of the business. Your cooperation is much appreciated.

All workplaces need to appoint a **COVID-19 compliance officer** and this person needs to be known to all of the employees. Furthermore, a **COVID-19 Workplace Plan** needs to be developed and implemented:-

- Develop a plan for the phased-in return of employees, which must contain:
  - Which employees are permitted to work;
  - Plans for phased-in return to work;
  - Health protocols; and
  - The details of the COVID-19 compliance officer.
- The compliance officer must ensure that health and safety protocols are adhered to.
3. **SALE, DISPENSING AND TRANSPORTATION OF LIQUOR – LEVEL 3**

Based on our deliberations and engagement with Government, the following is the interpretation of the published regulations.

1) **What are the trading hours to consumers?**
   
   Off-consumption trading hours will be: **Monday to Thursday**, from **09h00 to 17h00**. The final delivery of goods to customers, must also adhere to these timelines.

2) **If my business does not have an off-consumption license, am I able to trade?**
   
   In terms of the regulations, any business with a liquor licence from the National or a Provincial Liquor Authority will be permitted to sell liquor for off-site consumption.

   Please follow this [link](Danie Cronjé Attorneys) to learn more.

3) **Will any on-consumption trading be allowed under Level 3?**
   
   No on-consumption will be allowed.

4) **Will a winery be allowed cellar door sales?**
   
   Yes – any cellar door/winery sales, **with an off-consumption license**, will be allowed to commence with liquor sales. Very important that every entity pay special attention to the [previously shared protocol](#) and implement accordingly (merely our advice):
   
   - At the entrance/security gate a welcome note and safety protocol to be distributed to all visitors. Here you can already share your order list – to be completed and presented once inside.
   - Clearly display the liquor license certificate.
   - Safety and health posters to be displayed – wear a mask, maintain social distancing, wash hands and use sanitiser, etc.
   - It is not compulsory, but measuring the temperature of any visitor will be an advantage.
   - Mark the physical distance, between customers, lining-up in a queue.
   - Please manage the number of visitors inside the tasting room.
   - Hand sanitiser to be available.
   - No tastings and/or any other activities are permitted during level 3.
   - Limit any contact between customers, cellar door staff and other personnel to the minimum.
   - We would like to encourage a “click & collect” system.

5) **Will the industry be allowed to prepare the value-chain before 1 June 2020?**
   
   Yes – the transportation of liquor to licensed premises is permitted from **29 May 2020** (in preparation to be ready on **1 June 2020**), subject to directions which may issued by the relevant Ministry.

6) **Will travel permits be required under level 3?**
   
   It is our interpretation that **ALL** businesses and other entities may operate, except those set out in **Table 2**.

   A person may leave his or her place of residence to travel to work, and perform **ANY** service, as allowed in alert level 3:
   
   - The general public is still confined to their place of residence except for:
     - Working or travelling to or from work;
     - Buying goods or obtaining services permitted under level 3;
     - Moving children as per custody agreements;
     - Exercising between 6am and 6pm (the 5 km radius has been done away with);
- Attending a place of worship;
- Attending school or tertiary education as permitted under directions;
- Attending a funeral;
- Seeking medical attention;
- Transporting mortal remains.

One may still only cross municipal or provincial boundaries for work purposes (and subject to the **Form 2 Permit**), or to move to a new place of residence or caring for an immediate family member.

All persons who are able to work from home must do so. However, persons in **all industries and activities** will be permitted to perform work outside the home, and to travel to and from work, under alert level 3, subject to:
(a) Strict health protocols, and social distancing rules;
(b) Return to work being phased in to enable measures to make the workplace COVID-19 ready;
(c) Return to work being done in a manner that avoids and reduces risks of infection; and
(d) Provided that they are not listed in Table 2.

All gatherings are prohibited except, when at a **workplace** for work purposes and/or agricultural auctions.

*Table 2 must be read in conjunction with the regulations, in particular the restrictions on movement of persons, places and premises and gatherings.*

7) Will advertising and promotion be allowed?

**Advertising:**
- Liquor traders are committed to upholding responsible trade conduct under applicable liquor laws and regulations.
- Marketing messaging will support responsible consumption and COVID-19* related messaging.
  *COVID-19 sensitive messages include images that adhere to social distancing guidelines, hygiene practices, staying at home and wearing masks (where applicable).*
- No printed pamphlets allowed under alert level 3, other than showing product and price in stores to inform consumers and on websites.
- We (the liquor industry) commit to using our media platforms and advertising content to support adequate changes in behavior and promote responsible consumption of liquor in all relevant marketing material.

**Promotions:**
Promotional activities will be confined to assuring availability of product, not attracting people to stores more than necessary, and will not aim to promote higher consumption due to keener pricing.

**Responsible Trading:**
The industry commits to additional measures to discourage the sale of alcohol. We will not sell liquor to minors, pregnant women, people who are visibly intoxicated or people in uniform.

8) How can we manage initial demand?
We would like to advise our members to ensure an increased security presence and staff complement to safely and adequately manage the initial surge in demand. Manufacturers commit to having additional staff to help monitor non-compliance with relevant regulations.
Where possible, promote and enable sales via the following channels (during permitted retail hours only):
- click/call and collect;
- drive through; and
- e-commerce.

9) **Will there be any limits on quantities for sale to consumers?**
The retail industry will self-regulate in order to limit the quantity available for sale in any one-consumer transaction, so as to support and promote responsible consumption, and we would like to propose the same.

10) **Please share more detail on places/premises closed to the public.**
Cultural, sporting, entertainment, parks or leisure premises continue to be closed to the public with the notable exceptions:
- Hotels, lodges and other forms of accommodation can only host persons for work purposes; and
- Tourist attractions such as parks and game reserves (public and private) must remain closed except that “private self-drive excursion activities” are permitted. This is however qualified in that one is still not permitted to cross municipal, provincial or national boundaries to access same.

4. **INSPECTION, CERTIFICATION AND RELATED SERVICES (SAWIS & DALRRD) & OTHER RELEVANT INFORMATION**

1) **How do I go about certifying my wine?**
In this regard please refer to the [Wine and Spirits Board/SAWIS directive](#).

2) **Does my wine have to be sensorially evaluated?**
During level 3 of the lockdown period there will not be any tasting panels (with consent from the Wine and Spirits Board), but laboratory analysis is still required.

3) **Can uncertified market-ready packaged wine be exported?**
- Uncertified wine sensorially approved prior to the lockdown, may be exported.
- In the absence of sensorial analysis the process with regard to new applications are **not the same** as pre-lockdown process. All new applications for uncertified market-ready packaged wine to be exported will be allowed, provided that it follows the same process as certified wine. Changes have been made to the Wine Online system to accommodate for this.
- For DALRRD (Department of Agriculture, Land Reform and Rural Development) arrangements and procedures, [follow the link](#) and log in, or contact Kobus van Wyk at kobusvw@daff.gov.za.
- New regulations under level 3 are being investigated and you will be informed accordingly.

4) **How do I go about obtaining an export certificate?**
The DALRRD office is geared to continue with remote issuing of all export documentation. Electronic certification has been implemented on Wine Online as an urgent measure to ensure that export clearance can still continue. All clearance documentation, e.g. VI1 documentation, analysis certificates, health certificates, etc will be issued electronically, until further notice.

5) **What do I do if the importing country does not accept the electronic version of the export certificate?**
DALRRD has done everything in their power to ensure that the electronic version of the export documents are accepted. The latest feedback is that Germany accepts VI1s until 14 August 2020 (this is a massive benefit as exporters then do not have to pay courier costs for the next few months). All clearance documentation is downloadable and can be send via email. For any queries in this regard contact Wendy Jonker at wendyj@daff.gov.za.

Due to the backlog of physical documentation that need to be processed for certain countries, the DALRRD office will only be open from 8 June 2020 for the collection of physical documentation.

The issuing of e-certificates will continue during lockdown level 3 for those countries that continue to accept e-certificates. The DALRRD requests that clients do not visit the offices unnecessarily, as access to the premises will be limited where possible to ensure social distancing and current regulatory compliance.

**Note:** Requests for original documentation to be issued will only be handled via email by the export clerks. There is an immense amount of documentation to process, which will be done systematically in order to expedite delivery.

6) **How will the DALRRD control samples be dealt with during lockdown level 3?**
As is currently the case, please draw the control samples and deliver it to the Wynland laboratory.

7) **Is production, manufacturing, bottling, labelling and any other related services (i.e., packaging) allowed during level 3 of the lockdown?**
Yes, provided that it is taking place under strict health and safety protocols. Refer to the [various protocols](#) in this regard.

It is then our interpretation that the manufacturing and/or bottling of wine and/or liquor, destined for both the local market and exports, are permitted and may be scaled up to full employment.

8) **Can all dry goods service providers continue to print labels, provide bottles and/or capsules, corks, etc?**
Yes, provided that it is taking place under strict health and safety protocols.

9) **Can any imports, i.e., chemicals, dry goods, wine barrels and bottles, be off-loaded and collected from the harbour or airport?**
Yes, this can be done, as highlighted in a previous Government Gazette. The Cape Town Port will endeavour to bring into operation additional berths (in the container terminal) and will adapt accordingly.

10) **Is transportation of wine/liquor – not only finished/market-ready bulk and packaged products, but also into Africa and across our country’s borders (e.g., Botswana/Namibia) – by road or rail permitted?**
- Yes. As per previous regulations and confirmed in the latest regulations (paragraph 42, page 15), the movement of all cargo to other countries, as well as within the republic is permitted by rail, ocean, air or road transport.
- The Minister of Trade, Industry and Competition (DTIC) can issue directives regarding the administration and prioritisation of exports or imports to manage bottlenecks at the ports.
- The Minister of Transport may issue directions relating to health protocols for sea or air cargo.
11) Is movement of liquor/wine between cellars allowed? 
Yes, aligned with previous answer. It is our interpretation that all transport of liquor, including wine, between cellars, bottling and/or labelling plants (part of storage and/or destined for both the local and/or export market), is allowed, as part of the supply-chain, also including any other related services such as blending, bottling and labelling.

12) How do I ensure that I am conforming to the correct OHS protocols? 
Refer to the safety procedures protocol and/or what PPE should be worn as submitted to Government. Please familiarise yourself and strictly apply it to your environment.

We will continue to keep you informed of any further developments as they unfold.