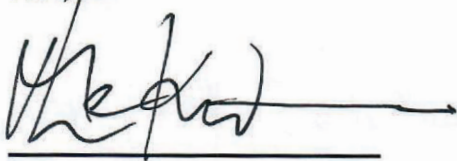


DEPARTMENT OF ECONOMIC DEVELOPMENT
NOTICE 555 OF 2019

**NORTHERN CAPE LIQUOR ACT, 2008 (ACT NO. 2 OF 2008):
REGULATIONS REGARDING THE CHIEF EXECUTIVE
OFFICER**

In terms of the powers vested in me by section 12(6) of the above Act, I Maruping Lekwene, Member of the Executive Council of the Northern Cape Province responsible for Finance, Economic Development and Tourism, hereby make the Regulations contained in this Notice. The previous Regulations promulgated in terms of section 12(6) are therefore revoked and replaced in terms of this Notice.

A handwritten signature in black ink, appearing to read 'M. Lekwene', is written over a horizontal line.

M LEKWENE: MPL

MEC: Finance, Economic Development and Tourism

REGULATIONS: CHIEF EXECUTIVE OFFICER

Definitions

- 1.** In these Regulations, unless the context otherwise indicates, -

"Board" means the Provincial Liquor Board established in terms of section 6 of the Act;

"Chief Executive Officer" means the chief executive officer of the Board appointed in terms of section 12 of the Act;

"responsible Member" means the Member of the Executive Council of the Northern Cape Province responsible for liquor matters; and

"the Act" means the Northern Cape Liquor Act, 2008 (Act No. 2 of 2008).

Determination of requirements for appointment of Chief Executive Officer

- 2.** (1) The Board shall determine and record composite requirements for appointment of the Chief Executive Officer on the basis of the main objectives, core functions and the inherent requirements of the job.
- (2) The Board shall –
- (a) ensure that the requirements for appointment of the Chief Executive Officer do not unfairly discriminate against any person; and
- (b) comply with all statutory requirements for the appointment of the Chief Executive Officer.

Advertising of post

- 3.** (1) The Board shall ensure that the vacant post of the Chief Executive Officer is advertised, as efficiently and effectively as possible, to reach the entire pool of potential applicants, including designated groups.
- (2) The advertisement shall as a minimum specify the job title,

salary scale, core functions, place of work, inherent requirements of the job, including any other requirements prescribed in these Regulations.

- (3) The Board shall advertise the vacant post in at least:
 - (a) one widely distributed newspaper and/or online platforms; and
 - (b) in a manner that, through public invitation, request applications, to be submitted to the Board as directed in the advertisement.
- (4) An advertisement for the post the Chief Executive Officer shall not unfairly discriminate against or prohibit any suitably qualified person from applying.
- (5) The post the Chief Executive Officer shall be advertised within six months after becoming vacant and be filled within twelve months after becoming vacant.

Selection procedure

- 4. (1) The Board shall appoint a selection committee to make a recommendation on the appointment of a suitable and competent Chief Executive Officer. The selection committee shall consist of at least three members of skill and competence in human resources management and corporate governance.
- (2) A selection committee shall, where possible, include adequate representation of designated groups.
- (3) Any suitably qualified person or employee may provide secretarial or advisory services during the selection process.
- (4) The selection committee shall make a recommendation, to the Board, on the suitability of a candidate after considering only-
 - (a) information based on valid methods, criteria or instruments for selection that are free from any bias or discrimination;
 - (b) the inherent requirements of the post;
 - (c) the entity's employment equity plan; and
 - (d) in respect of candidates applying for posts-
 - (i) the level of understanding of the entity's mandates;
 - (ii) the ability to identify problems and find innovative solutions; and

- (iii) the ability to work in a team.
- (5) A selection committee shall record the reasons for its recommendation with reference to the criteria mentioned in sub-regulation (4).
- (6) If the selection committee is unable to recommend a suitable person for appointment from those who applied in terms of sub-regulation (4), the Board may, after that selection process has been completed, approve the head-hunting of one or more persons with the requisite competencies and subject such person or persons to the same selection process as those who applied.
- (7) The Board, if it supports the recommendation of the selection committee, shall further recommend the appointment of the recommended candidate(s) to the Responsible Member, for approval.
- (8) Before making a recommendation on the appointment or the filling of the post of the Chief Executive Officer, the Board shall-
- (a) satisfy itself that the candidate qualifies in all respects for the post and that his or her claims in his or her application for the post has been verified; and
 - (b) record that verification in writing; and
 - (c) include this information in the recommendation to the Responsible Member.
- (9) If the Responsible Member does not approve a recommendation of the Board, he or she shall record the reasons for his or her decision in writing.

Resignation by Chief Executive Officer

5. (1) The Chief Executive Officer may, on at least one month's written notice tender to the Board his or her resignation from the office.
- (2) The Board shall stipulate in the performance agreement the manner in which the Chief Executive Officer shall submit his or her resignation.
- (3) The Board shall conduct and record an exit interview with the Chief Executive Officer who has resigned and record the reasons given by

the Chief Executive Officer for his or her resignation.

- (4) The Chief Executive Officer, who has submitted his or her resignation to the Board, may only withdraw his or her resignation with the written approval of the Board, which approval shall be made no later than the last working day.
- (5) If notice of resignation is given in terms of sub-regulation (1), the Board shall require the Chief Executive Officer to return all official equipment and documents, vacate his or her office and leave the entity's premises on expiry of the notice period as given by the resigning CEO.

Systems for performance management and development

- 6.(1) The Board shall approve and implement a system for the performance management.
- (2) A system contemplated in sub-regulation (1) shall provide for-
 - (a) dimensions of performance assessment;
 - (b) a weighting percentage for the key result areas and competency requirements;
 - (c) monitoring the Chief Executive Officer's performance at least quarterly if the Chief Executive Officer's performance is satisfactory or unsatisfactory, in writing, and
 - (d) a written mid-cycle performance assessment of the Chief Executive Officer's performance and a written annual performance assessment. The annual assessment shall reflect the performance of the Chief Executive Officer for the entire period of the cycle.

Employment Agreement, Performance agreements and assessments

- 7. (1) The appointment of the Chief Executive Officer by the Responsible Member as contemplated in section 12(1) of the Act becomes effective from the date of entering into a written employment contract with the Board, which employment contract must be for a duration of his or her term of office.
- (2) The employment contract, as contemplated in sub-regulation (1)

must, as a minimum, contain the Chief Executive Officer's personal particulars, term of office, conditions of service, powers, functions, responsibilities, duties, as well as his or her remuneration, allowances and benefits.

- (3) The Chief Executive Officer shall, besides the employment contract, enter into a performance agreement or an agreement of similar nature with the Board, within three calendar months of his or her date of appointment and thereafter within two months of the beginning of each financial year. This agreement may be reviewed from time to time.
- (4) A performance agreement or an agreement of a similar nature shall include at least the following:
 - (a) a job title and a clear description of the main objectives of the Chief Executive Officer's job and the relevant outputs or key responsibility areas and competency requirements;
 - (b) a work plan containing the outputs, activities and resource requirements; and
 - (c) a personal development plan that identifies the Chief Executive Officer's competency and developmental needs in terms of the inherent requirements of the job as well as methods to improve these.

Chief Executive Officer

- 8. (1) The Chief Executive Officer, appointed in terms of Section 12(1) of the Act, must be a person who has appropriate qualifications, knowledge and experience regarding the business and operations of the Board, but must at least possess a relevant degree or equivalent qualification from an accredited institution of higher education.
- (2) The Chief Executive Officer is the head of administration of the Board subject to the control of the Board.
- (3) The Chief Executive Officer is appointed for such period and on such terms and conditions of service, as the Responsible Member

may determine, on the advice of the Board, but-

- (a) may not be so appointed for a period exceeding five (5) years;
- (b) upon the expiration of the term of office of the chief executive officer, he or she is eligible for reappointment for one further term of five (5) years;
- (c) the Chief Executive Officer may not undertake any other remunerative work, without prior written consent of the Board, in consultation with the Responsible Member.
- (4) Whenever the office of the chief executive officer is vacant or the chief executive officer is absent or incapacitated or refuses or fails to act, the powers and functions of the Chief Executive Officer may be exercised and performed by any person designated as the Acting Chief Executive Officer by the Responsible Member, on the advice of the Board, but no such person may be acting Chief Executive Officer for a period exceeding 12 months in total.
- (5) The Acting Chief Executive Officer has the same powers and competencies as a Chief Executive Officer, to carry out its functions.
- (6) These Regulations apply *mutatis mutandis* to the Acting Chief Executive Officer.

Discipline and removal from office

9. (1) The Responsible Member, on the advice of the Board, may subject the Chief Executive Officer to disciplinary processes as provided for in the Board's disciplinary code or Code of Conduct, or on the basis of Schedule 8 of the Labour Relations Act, 1995 (Act No 66 of 1995), as amended.
- (2) The Responsible Member, on the advice of the Board, may dismiss or remove the Chief Executive Officer from the Office on account of-
- (a) his or her improper conduct;
 - (b) incapacity due to ill-health or poor performance; and/or
 - (c) on the grounds that he or she is or has become subject to

disqualification envisaged in section (9) of the Act.

- (3) The Responsible Member may, on the advice of the Board, in order to determine whether there exists sufficient cause for the removal of the Chief Executive Officer from office as contemplated in sub-regulation (2), initiate an investigation or disciplinary hearing for that purpose.
- (4) The Responsible Member shall delegate the initiation and conducting of an investigation as contemplated in sub-regulation (3) to the Board to manage, in accordance with Labour Relations Act, 1995 (Act No 66 of 1995), as amended.
- (5) Whenever any investigation or disciplinary hearing is initiated as contemplated in sub-regulation (3) above, or is being undertaken, the Responsible Member may, on the advice of the Board, with due regard to the provisions of the Labour Relations Act, 1995 (Act No 66 of 1995) as amended, suspend the Chief Executive Officer from his or her office pending the outcome of such investigation or disciplinary hearing.