

## Appeals and reviews – Regulation 34

- 1) A person who has lodged—
  - a) an application;
  - b) an objection; or
  - c) representations,

in terms of the Act and who feels aggrieved by a decision made by the Liquor Licensing Tribunal, the Presiding Officer or a Deputy Presiding Officer, as the case may be, in respect of the application, objection or representations and who intends to lodge with the Authority a notice of appeal or an application for review (in this regulation referred to as the appellant), may request the Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be, to furnish reasons for the decision.

- 2) An appellant who intends to request reasons for a decision must lodge with the Authority a request for reasons—
  - a) within 14 days of the date on which he, she or it was notified of the decision; or
  - b) within one day of the date on which he, she or it was notified of the decision, if the notice of appeal or application for review is intended to be lodged in respect of an application made in terms of regulation 19(1)(a) or (b).
- 3) An appellant who does not intend to request reasons for a decision must lodge with the Authority a notice of appeal or an application for review in accordance with sub regulation (5).
- 4) The Liquor Licensing Tribunal, the Presiding Officer or a Deputy Presiding Officer, as the case may be, must—
  - a) in respect of a request made in terms of sub regulation (2)(a), within 21 days; or
  - b) in respect of a request made in terms of sub regulation (2)(b), within one day, after receipt of the request for reasons, furnish written reasons for the decision.
- 5)
  - a) An appellant contemplated in sub regulation (2) and (3) must lodge with the Authority a notice of appeal or an application for review, as the case may be, in the form of Form 29 in Annexure 3—
    - i. within 20 days of receipt of the reasons for the decision or the date on which he, she or it was notified of the decision; as the case may be; or
    - ii. within two days of receipt of the reasons for the decision or the date on which he, she or it was notified of the decision, as the case may be, if the notice of appeal or application for review is intended to be lodged in respect of an application made in terms of regulation 19(1)(a) or (b).
  - b) The appellant must, within the period referred to in paragraph (a)(i) or (ii), as the case may be—
    - i. serve a copy of the notice or application referred to in paragraph (a) on every interested party who may be affected by the notice of appeal or application for review; and
    - ii. provide proof to the Authority that the notice or application has been so served.
- 6) A notice of appeal or an application for review must—
  - a) be in typed script and in double spacing on A4-size standard white paper;
  - b) be accompanied by a statement setting out the grounds of appeal or review;

- c) be accompanied by a comprehensive statement of the factual or legal points that the appellant submits in substantiation of the appeal or review;
  - d) be accompanied by a list of the authorities, if any, to be tendered in support of each of the main factual or legal points; and
  - e) set out the relief sought by the appellant.
- 7)
- a) The Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be, and an interested party contemplated in sub regulation (5)(b)(i) may lodge with the Authority a responding statement to the notice of appeal or application for review referred to in sub regulation (6) within—
    - i. 14 days of receipt of the notice of appeal or application for review; or
    - ii. two days of receipt of the notice of appeal or application for review, if the notice of appeal or application for review was lodged in respect of an application made in terms of regulation 19(1)(a) or (b).
  - b) The Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be, and an interested party contemplated in sub regulation (5)(b)(i) must within the period referred to in paragraph (a)(i) or (ii), as the case may be—
    - i. serve a copy of the responding statement referred to in paragraph (a) on the appellant; and
    - ii. provide proof to the Authority that the responding statement has been so served.
- 8) A responding statement must—
- a) be in typed script and in double spacing on A4-size standard white paper;
  - b) set out a response to the notice of appeal or application for review lodged in terms of sub regulation (6)(a); and
  - c) be accompanied by a list of the authorities, if any, to be tendered in support of the statement.
- 9) The Chief Executive Officer must, within two days after the period referred to in sub regulation (7)(a)(i) has lapsed or within one day after the period referred to in sub regulation (7)(a)(ii) has lapsed, as the case may be, submit to the Appeal Tribunal the following:
- a) the record of the decision of the Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be, that is the subject of the notice of appeal or application for review;
  - b) where available, the transcription of the recording of the meeting of the Liquor Licensing Tribunal relating to the notice of appeal or application for review;
  - c) the notice of appeal or application for review; and
  - d) any responding statements lodged with the Authority.
- 10) An appellant may, at any time before the Appeal Tribunal makes a decision on a notice of appeal or an application for review lodged by the appellant, withdraw the notice of appeal or application for review by giving written notice of the withdrawal to the Chief Executive Officer.
- 11) The Appeal Tribunal must consider the notice of appeal or application for review on the date as contemplated in sub regulation (28)(b)(i) or (ii), as the case may be.
- 12) The Appeal Tribunal may request further information that, in the opinion of the Appeal Tribunal, is required to clarify issues raised by the notice of appeal or application for review from the Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be, the appellant or an interested party contemplated in sub regulation (5)(b)(i).

- 13) The Appeal Tribunal must, within five days of receipt of all the relevant documents and information referred to in sub regulation (9) or within one day of receipt of all the relevant documents referred to in sub regulation (9) if the notice of appeal or application for review was lodged in respect of an application made in terms of regulation 19(1)(a) or (b), assess whether the Appeal Tribunal requires further information.
- 14) If the Appeal Tribunal assesses that further information is required, the Chief Executive Officer must, within five days of the assessment referred to in sub regulation (13), or within one day of the assessment referred to in sub regulation (13) if the notice of appeal or application for review was lodged in respect of an application made in terms of regulation 19(1)(a) or (b), notify the relevant person that further information is required and of the details of the further information so required.
- 15) The person from whom further information is requested must, within five days of receipt of the notice referred to in sub regulation (14) or within one day of receipt of the notice referred to in sub regulation (14) if the notice of appeal or application for review was lodged in respect of an application made in terms of regulation 19(1)(a) or (b)—
  - a) serve copies of the further information requested on—
    - i. every interested party contemplated in sub regulation (5)(b)(i) and the Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be, if the person is the appellant;
    - ii. the appellant, Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be, and every other interested party contemplated in sub regulation (5)(b)(i), if the person is an interested party; or
    - iii. the appellant and every interested party contemplated in sub regulation (5)(b)(i), if the person is the Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be; and
  - b) lodge the further information with the Chief Executive Officer.
- 16) The Chief Executive Officer must on the day on which the further information is received forward the further information to the Appeal Tribunal.
- 17) When further information is served as contemplated in sub regulation (15), the relevant persons contemplated in sub regulation (15)(a) may, within—
  - a) five days of receipt of the further information; or
  - b) one day of receipt of the further information if the notice of appeal or application for review was lodged in respect of an application made in terms of regulation 19(1)(a) or (b), submit to the Chief Executive Officer submissions in relation to the further information lodged.
- 18) The Chief Executive Officer must on the day on which the submissions are received forward the submissions to the Appeal Tribunal.
- 19) The Appeal Tribunal may consider a notice of appeal or an application for review by means of—
  - a) the consideration of the relevant documents and information referred to in sub regulations (9), (15) and (17); or
  - b) a hearing.
- 20) The notice of appeal or application for review may, subject to sub regulations (24) and (25), be considered in terms of sub regulation (19)(a) if it appears to the Appeal Tribunal that the issues for determination in the notice of appeal or application for review can be adequately determined in the absence of the parties by considering the documents or other materials provided to it.

- 21) The notice of appeal or application for review may be considered in terms of sub regulation (19)(b)—
- a) if it appears to the Appeal Tribunal that the issues for determination in the notice of appeal or application for review cannot be adequately determined in the absence of the parties by considering the documents or other materials provided to it; or
  - b) if a hearing would assist in the expeditious and fair disposal of the notice of appeal or application for review.
- 22)
- a) Where no further information is required, the Appeal Tribunal must, within one day of its assessment referred to in sub regulation (13) assess whether the notice of appeal or application for review lodged by the appellant should be considered in terms of sub regulation (19)(a) or (b) and simultaneously notify the Chief Executive Officer of its assessment.
  - b) Where further information is required, the Appeal Tribunal must, within—
    - i. three days of receipt of the submissions contemplated in sub regulation (17)(a), if any; or
    - ii. one day of receipt of the submissions contemplated in sub regulation (17)(b), if any, assess whether the notice of appeal or application for review lodged by the appellant should be considered in terms of sub regulation (19)(a) or (b) and simultaneously notify the Chief Executive Officer of its assessment.
- 23) The Chief Executive Officer must within—
- a) three days of receipt of the notice contemplated in sub regulation (22)(a) or (22)(b)(i); or
  - b) one day of receipt of the notice contemplated in sub regulation (22)(a), if the notice of appeal or application for review was lodged in respect of an application made in terms of regulation 19(1)(a) or (b) or sub regulation (22)(b)(ii), notify the Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be, the appellant and every interested party contemplated in sub regulation (5)(b)(i) whether the notice of appeal or application for review lodged by the appellant is to be considered in terms of sub regulation (19)(a) or (b).
- 24) Where the notice referred to in sub regulation (23) states that the notice of appeal or application for review is to be considered in terms of sub regulation (19)(a), the appellant and every interested party contemplated in sub regulation (5)(b)(i) must within—
- a) five days of receipt of the notice referred to in sub regulation (23)(a); or
  - b) one day of receipt of the notice referred to in sub regulation (23)(b), notify the Chief Executive Officer in writing whether or not he, she or it agrees to the consideration of the notice of appeal or application for review in terms of sub regulation (19)(a).
- 25) If the Chief Executive Officer does not receive a notice from the appellant or an interested party within the relevant period referred to in sub regulation (24), whether or not he, she or it agrees to the consideration of the notice of appeal or application for review in terms of sub regulation (19)(a), it must be assumed that the appellant or interested party, as the case may be, so agrees.
- 26) Where the appellant and every interested party contemplated in sub regulation (5)(b)(i) agree to the consideration of the notice of appeal or application for review in terms of sub regulation (19)(a) or where no response was received from the appellant and every interested party contemplated in sub regulation (5)(b)(i), the Appeal Tribunal must consider the notice of appeal or application for review in terms of sub regulation (19)(a).

- 27) Where the notice referred to in sub regulation (23) states that the notice of appeal or application for review is to be considered in terms of sub regulation (19)(b) or if the appellant or an interested party contemplated in sub regulation (5)(b)(i) notifies the Chief Executive Officer in terms of sub regulation (25) that he or she does not agree to the consideration of the notice of appeal or application for review in terms of sub regulation (19)(a), the Appeal Tribunal must consider the notice of appeal or application for review in terms of sub regulation (19)(b).
- 28) The Chief Executive Officer must on the day on which the notice contemplated in sub regulation (24) is received from the appellant or interested party, on the day on which the relevant period referred to in sub regulation (24) lapses or, in respect of a notice contemplated in sub regulation (23) that states that the notice of appeal or application for review is to be considered in terms of sub regulation (19)(b), on the day on which the notice contemplated in sub regulation (23) is sent to the relevant persons—
- a) notify the Appeal Tribunal whether or not the appellant or interested party agrees to the consideration of the notice of appeal or application for review in terms of sub regulation (19)(a) or whether no response was received from the appellant or the interested party, as the case may be; and
  - b) give written notice of the date for the consideration of the notice of appeal or application for review to the Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be, the Appeal Tribunal, the appellant and the interested party, which date must be within—
    - i. ten days of the notice referred to in paragraph (a); or
    - ii. three days of the notice referred to in paragraph (a) if the notice of appeal or application for review was lodged in respect of an application made in terms of regulation 19(1)(a) or (b).
- 29) When an appeal or review is to be considered by means of a hearing, the Appeal Tribunal must at the consideration of the appeal or review follow the following procedure:
- a) the Appeal Tribunal must advise the appellant and every interested party contemplated in sub regulation (5)(b)(i) who are present that he, she or it will be given an opportunity to present his, her or its notice of appeal, application for review or responding statement, as the case may be;
  - b) the Appeal Tribunal may adjourn the hearing on good grounds at the request of a party to a time and date determined by the Appeal Tribunal for the continuation of the hearing;
  - c) the appellant must present and argue his, her or its notice of appeal or application for review first, unless the Appeal Tribunal on good cause shown, determines otherwise;
  - d) the representative of the Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be, may present his, her or its responding statement, if any, after the appellant at the request of the Appeal Tribunal, unless the Appeal Tribunal, on good cause shown, determines otherwise;
  - e) every interested party contemplated in sub regulation (5)(b)(i) may present and argue his, her or its responding statement, if any, after the representative of the Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be, unless the Appeal Tribunal on good cause shown, determines otherwise;
  - f) the Appeal Tribunal may ask questions to obtain clarity during the hearing;

- g) the Appeal Tribunal may request further information that, in the opinion of the Appeal Tribunal, is required to clarify issues raised during the hearing from the Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be, the appellant or every interested party contemplated in sub regulation (5)(b)(i) who is present at the hearing;
  - h) the Authority must ensure that the hearing is recorded.
- 30)
- a) The Appeal Tribunal must provide a written record of its findings and the reasons for the findings to the Authority.
  - b) The Authority must keep a written record of all appeals and applications for reviews lodged with the Authority.
- 31) If a notice of appeal or application for review, a document accompanying it, a statement contemplated in sub regulation (8) or a notice is defective in any respect or if any person fails to lodge any document or adhere to a time period or time limit, the Appeal Tribunal may condone the defect or failure if such condonation is not likely to prejudice any person.
- 32) The Appeal Tribunal must reach a decision on a notice of appeal or application for review—
- a) in respect of a hearing—
    - i. within 14 days of the date of the hearing; or
    - ii. on the date of the hearing, if the notice of appeal or application for review was lodged in respect of an application made in terms of regulation 19(1)(a) or (b);
  - b) in respect of a consideration of the notice of appeal or application for review in terms of sub regulation (19)(a)—
    - i. within 14 days of the date on which the notice of appeal or application for review was considered; or
    - ii. on the date on which the notice of appeal or application for review was considered if the notice of appeal or application for review was made in terms of regulation 19(1)(a) or (b); or
    - iii. within the extended period contemplated in sub regulation (33).
- 33) The Appeal Tribunal may extend the period contemplated in sub regulation (32)(a)(i) in exceptional circumstances.
- 34) The Appeal Tribunal must notify the Authority of its decision and the reasons therefore—
- a) within two days of reaching a decision as contemplated in sub regulation (32)(a)(i) or (b)(i), as the case may be; or
  - b) on the day of reaching a decision as contemplated in sub regulation (32)(a)(ii) or (b)(ii), as the case may be.
- 35) The Chief Executive Officer must, within—
- a) seven days after the Appeal Tribunal has notified the Authority of its decision in terms of sub regulation (34)(a); or
  - b) one day after the Appeal Tribunal has notified the Authority of its decision in terms of sub regulation (34)(b), notify the Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be, the appellant and every interested party contemplated in sub regulation (5)(b)(i) in writing of the decision of the Appeal Tribunal, the reasons therefore and the extent to which the decision of the Liquor Licensing Tribunal, Presiding Officer or Deputy Presiding Officer, as the case may be, is confirmed, amended or set aside.”.