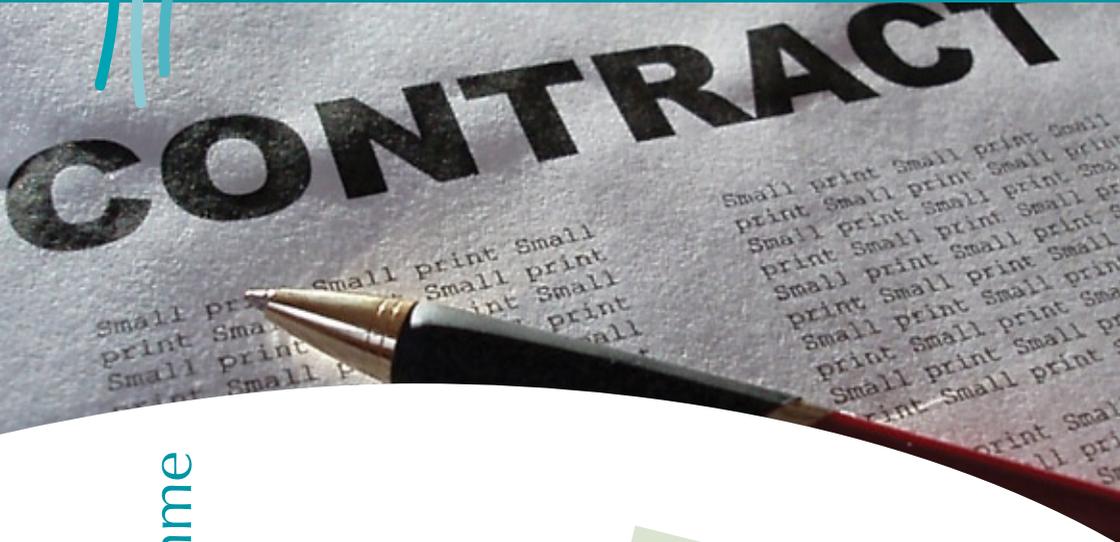


TOOLKIT

Legalities and Compliances



Tourism Enterprise Programme

The legal requirements and compliances for establishing a business in the tourism and hospitality sector.



FOREWORD

3

Access to information is consistently noted as both a large concern and gap for tourism SMMEs. To address this gap in the market, TEP developed a number of practical toolkits in 2006. DEAT (Department of Environmental Affairs and Tourism) then approached TEP to create an extensive Toolkit Project.

The objective of the project is to identify and address the needs of Tourism SMMEs for information and skills through the production and national distribution of practical and relevant toolkits in five (5) official languages. This will enhance skills and enable entrepreneurs to be more successful in business, resulting in job creation in the tourism SMME sector.

The project aims to provide adequate and user-friendly information to the SMME Tourism Industry in South Africa.

Through this expansion, TEP has a series of eight (8) Toolkits which includes:

- Legalities and Compliances in the Tourism Industry
- Website planning and development in the Tourism Industry
- Business Planning in the Tourism Industry
- Marketing in Tourism
- Quality Assurance and Customer Care
- Tourism Channel
- Communication in Tourism
- Business Administration in Tourism

LEGALITIES AND COMPLIANCES IN THE TOURISM INDUSTRY

The information in this toolkit as been compiled to steer you through the maze of legal and compliance requirements for operating within the law in South Africa with reference to the Tourism and Hospitality industries. This Toolkit is targeted at small businesses, people wishing to enter the tourism industry as entrepreneurs and existing businesses within the industry who wish to ensure that they are operating legally. Although the information is of a general nature, we are sure that it will guide you towards ensuring that your company complies with industry standards,

We look forward to assisting you to grow within the tourism industry.

Yours in tourism,

TOURSIM ENTERPRISE PROGRAMME
Toolkit Project Team

CONTENTS**4**

1	Reserving a Company or Close Corporation name	6
2	Registering Your Business	9
3	Registering Your Business for Tax	12
3.1	Registering a Company or Close Corporation for Tax Purposes	14
3.2	Registering a Sole Proprietorship or Partnership for Tax Purposes	17
4	Qualifying and Registering for Value-Added Tax	20
5	Registering for Employee Tax, Skills Development and UIF	24
6	Registering your business with the Workmen's Compensation Fund	27
7	Registration as an Employer with a Bargaining Council	30
8	Registration in Terms of The National Water Act	34
9	Register with SAMRO	37
10	Obtaining a Trade License	40
11	Local Government By-laws	45
12	Certificate of Acceptability for Food Premises	46
13	Obtaining a Liquor License	48
14	Application for a Business Television License	56
15	Obtaining Vehicle and Transport Licenses	59
15.1	Registering and Licensing Your Vehicle(s) for Public Transport	59
15.2	Licensing the Driver for Public Transport	62
16	Registering as a Tourist Guide	64
17	Registration with Provincial Tourism Authorities	72
18	Insuring Yourself and Your Business	73

LEGALITIES AND COMPLIANCES

5

1 RESERVING A COMPANY OR CLOSE CORPORATION NAME

Once you have decided on the structure most suited to your business, you are going to have to decide on a name for the business and also determine whether or not you are required to register that name.

Who is required to register the trading name of their business?

The first point to note is that if you have chosen a Proprietorship or a Partnership you will not be required to register the name of your business with the Companies and Intellectual Property Registration Office of South Africa (CIPRO).

However if you have chosen a Close Corporation or a Company you will be required to register the name.

Why am I required to register the trading name of my business?

In order to prevent duplication of trading names and to protect the name of your business so that others do not use the same name at some time in the future, the trading name of a business is registered with CIPRO.

Which authority will I be dealing with?

In order to register the company's name and your Company or Close Corporation you will be dealing with the Companies and Intellectual Property Registration Office of South Africa based in Pretoria. The contact details are as follows:

Contact details for CIPRO

Website - www.cipro.co.za

Postal Address: PO Box 429, Pretoria, 0001

Physical Address: The DTI campus (Block F - Entfutukweni) No 77 Meintjies Street, Sunnyside. Pretoria

Customer Contact Centre: Tel: 0861 843 384, Fax: 0861 843 888

LEGALITIES AND COMPLIANCES

6

What will I be required to do?

We are going to assume that you have chosen a Close Corporation or Company. CIPRO requires that at least three alternative names be submitted when registering. You will need to register the name of your proposed Close Corporation or Company before registering the entity.

Tip: You can save yourself a lot of time when selecting a name by using the CIPRO website "name search" function at www.cipro.co.za. This will help you find out whether or not the name or names you have chosen have already been registered.

Once you have selected the required three names and ensured that they are not already being used, you will need to obtain and complete form CK7 - "Application for Reservation of Name, or Translated Form, or Shortened Form". This form can be obtained from the CIPRO office in Pretoria and can also be bought from stationers that supply legal forms such as Waltons, Hortons and some branches of CNA. You can also fill in a similar document online, which is very easy to do.

You can submit the completed form through the post, drop it off at the CIPRO office or send it on line. If you decide to register on line you will have to:

Online submissions

1. First register with CIPRO as a customer, registering an 18 character code with them: the first 6 characters you make up yourself. Very important – this 6-character code then becomes your Customer Code so make sure that you remember it and use it in all correspondence with CIPRO. The next 8 digits are the date of the registration (mmddyyyy), followed by the payment number that day (usually only 1 payment per day so that would be "01"). An example would be as follows: "midget2404200601". This is called a customer or agent code.
2. You will then need to pay the fee in order to create your virtual bank account with them. This must be done before they will do any processing for you. You can make a physical deposit into their account (quoting your code), or can make an electronic payment.

LEGALITIES AND COMPLIANCES

7

Tip: Pay for the whole amount at this stage – for both the name reservation and the registration of the CC.

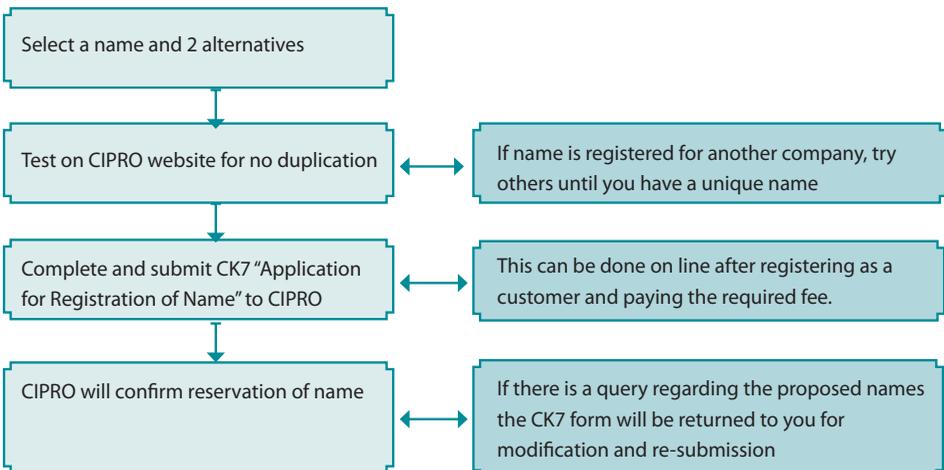
3. Fax proof of your payment (either of your deposit slip or electronic payment proof) to CIPRO to activate your account, which should take 24 – 48 hours.
4. Only once your account is activated can you start submitting information online.

Manual submissions

If not submitted online, the CK7 form must be completed in black ink, the writing must be easy to read and in capital letters, a fee of R50.00 must be paid into the CIPRO Bank account with proof of deposit submitted with your application.

Once the proposed name has been checked and approved, which will take around four to seven working days if not done online, the CIPRO Office will forward you a confirmation letter indicating that the name has been reserved. If there is a query regarding the proposed names, the CK7 form will be returned to you for alteration and re-submission.

Process



LEGALITIES AND COMPLIANCES

8

2 REGISTERING YOUR BUSINESS

Who is required to register their business?

As in the case of registering the trading name of your business, only a Close Corporation or a Company will be required to register. If you have formed a Proprietorship or a Partnership you will not be required to register.

Which authority will I be dealing with?

Once again you will be dealing with the Companies and Intellectual Property Registration Office of South Africa (CIPRO) based in Pretoria. All of the contact details are as listed under section one Reserving a Company or CC name.

Why am I required to register my business?

Both a Close Corporation and a Company are treated as a legal entity in South African law with their own legal personality and must therefore be registered with CIPRO.

What will I be required to do if I am going to register a Close Corporation?

Only when the proposed CC's name has been approved and reserved can the actual registration of the CC begin. Assuming that the name has been registered, you will now need to complete form CK1 "Close Corporation Founding Statement". Form CK1 can be obtained in exactly the same manner as you obtained form CK7. If you intend going to CIPRO a good idea, is to get a copy of both forms at the same time.

The three page CK1 form covers important information such as the details of the members, the nature of the business, address, etc. Everyone must complete pages 1 and 2 and page 3 is only applicable if there are more than 4 members in the Close Corporation. As in the case of form CK7, CK1 must be completed in black ink and in block letters. Please note that they will not accept any amendments to the form so make sure you get it right the first time.

The original completed CK1 form, (no photocopies), can be submitted either by post or in person to the Close Corporation Registration Office at the CIPRO building

LEGALITIES AND COMPLIANCES

9

in Pretoria.

Tips:

- Make sure that all members have signed the CK1 at their names
- Attach an original letter from your accountant in which he/she agrees to be the accounting officer for the CC
- Submit 3 copies of the CK1 and its attachments

Allow 5 to 8 working days for processing. A confirmation certificate of the approved CK1 form that includes the registration number and registration date is then posted to the CC.

Currently, a payment of R100.00 (at time of going to print) is required and a number of payment options are available. Call CIPRO on 0861 843 384 to confirm the cost and forms of payment before submitting the CK1 form either in person or by post.

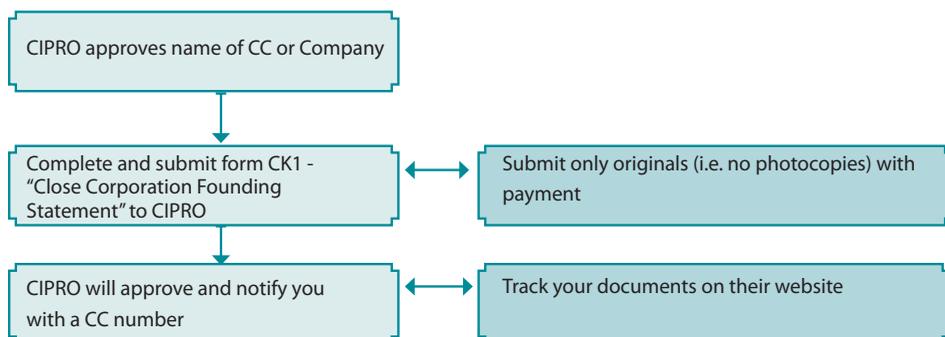
Once all the forms have been completed correctly and submitted, you will be notified and a CC number will be given to your company. CIPRO also has a facility on their website which will allow you to track the documentation you have submitted.

If at any time you have difficulty completing the forms or require any additional information, give CIPRO customer services a call on 0861843384. They will assist you and provide you with a reference number so that you can make follow up calls without having to repeat yourself every time.

LEGALITIES AND COMPLIANCES

10

Process



What will I be required to do if I am going to register a Company?

Registering a company is far more difficult than registering a Close Corporation and for this reason we have chosen not to go into any lengthy detail.

The registration procedure for a public or private company is a detailed and lengthy process and, due to the complexities involved, the services of a lawyer should be obtained.

Below is an example of the requirements for registering the various types of companies.

Documents	Purpose	Fees
CM5 (to be lodged in duplicate)	Application for reservation of a name	R50-00, original CM5 must be stamped
Power of Attorney	Authorisation to act on behalf of registered and postal address	
CM22 (to be lodged in duplicate)	Notification of situation of registered and postal address	None
CM29	Return containing particulars of director's officer	None
CM46	Application for certificate to commence business	R60-00
CM47 (each director)	Statement by directors regarding adequacy or inadequacy of share capital	None
CM31 (to be lodged in duplicate)	Consent to act as Auditor	None

LEGALITIES AND COMPLIANCES

11

Company Category	Documents	Purpose	Fees
Company with share capital	CM1, CM2, 2A, 2B, 2C or 2D	Memorandum of Association	R350-00 plus R5-00 per 1000 authorised capital in the case of par value shares or R5-00 per 1000 in the case of no par value shares
Company without share capital	CM44B, 44C	Articles of Association	None
Company limited by guarantee or association incorporated by Section 21	CM3, 4, 4A, 4B	Certificate of Incorporation and Memorandum of Association	None
Company adopting Table A or B	CM44	Articles of Association	None
Company not adopting Table A or B	CM44A, 44C	Articles of Association	None
Note: This may be subject to change so please check with CIPRO			

3 REGISTERING YOUR BUSINESS FOR TAX

The following three sections all deal with tax registration.

Which authority will I be dealing with?

You will be dealing with the South African Revenue Services or SARS as they are better known.

Contact details

SARS have revenue offices in the following locations:

Alberton	Klerksdorp	Randfontein
Beaufort West	Kroonstad	Roodepoort
Bellville	Krugersdorp	Rustenburg
Benoni	Lebowogomo	Sibasa
Bloemfontein	Mmabatho	Springs

LEGALITIES AND COMPLIANCES

12

Boksburg	Mount Edgecombe	Standerton
Brakpan	Nigel	Uitenhage
Cape Town	Nelspruit	Umlazi
Durban	Oudtshoorn	Umtata
East London	Pietermaritzburg	Vereeniging
George	Polokwane	Welkom
Germiston	Port Elizabeth	Witbank
Giyani	Pretoria	Worcester
Johannesburg	Pretoria East	Kimberley
Randburg		

For contact information, addresses and phone numbers, either consult your local telephone directory or go online to www.sars.gov.za. On the website, click on “contact us” at the top of the home page, then go to “Contact a SARS Office” and then click on “List of Revenue Offices”.

Tip – Unfortunately, it is possible that many of the telephone numbers and contact addresses are out of date and no longer correct. A suggestion is to either phone Telkom enquiries on 1023 and ask for the new number or alternatively call the SARS National Call Centre on 0860 121 218 and ask for the correct contact details of your nearest office.

Tip – If you intend to download documents from the SARS website, make sure that you print as dark a copy as possible. Otherwise, the form will be very difficult to read and complete. You can also obtain a copy from your local branch office of the Receiver of Revenue (see list above).

Tip – Once you have completed the form and have obtained all of the required supporting documentation, it would be a good idea to take it to your local SARS branch office in person. Do not hand it in immediately on arrival. Rather ask for a customer care consultant and let them have a look through the form to ensure that you have completed everything correctly and that you have the correct supporting documentation.

LEGALITIES AND COMPLIANCES

13

3.1 Registering a Company or Close Corporation for Tax Purposes

It is important to note that this section deals solely with the registration of Companies and Close Corporations with SARS for tax purposes. If you have structured your new business as a Sole Proprietor or a Partnership, please consult the section that deals with the registration of your new business as an employer for tax purposes.

Tip – Before registering your Close Corporation or Company with the South African Receiver of Revenue (or SARS, as it is more commonly known), make sure that you have registered the Close Corporation or Company with the Companies and Intellectual Property Registration Office of South Africa (CIPRO).

Explanation

Close Corporation

A Close Corporation is similar to a private company. It is a legal entity with its own legal personality and perpetual succession and must register as a taxpayer in its own right. The owners of the Close Corporation are the members. Members do not hold shares but have a membership interest in the Close Corporation. This interest is expressed as a percentage. A Close Corporation has no share capital and therefore no shareholders. Membership, generally speaking, is restricted to natural persons. A Close Corporation may not have an interest in another Close Corporation. The minimum number of members is one and the maximum number of members is ten.

Private Company

A company is treated by law as a separate legal entity and must also register as a taxpayer in its own right. It has a life or existence separate from its owners with rights and duties of its own. The owners of a private company are the shareholders. The managers of a private company may or may not be shareholders. A company may not have an interest in a Close Corporation. The maximum number of shareholders is restricted to fifty.

Why am I required to register?

Income tax is the State's main source of income and is levied on taxable income in terms of the Income Tax Act. Income tax is levied on a variety of entities: individuals,

LEGALITIES AND COMPLIANCES

14

companies and trusts. This means that even a small business – whether it takes the form of a private company, a sole proprietorship, a Close Corporation or a partnership – will be required to register and will be required to pay income tax.

Who is required to register?

All new and existing businesses are required to register with the South African Revenue Services (SARS). You must register with your local SARS branch office as soon as you start a business - whether it takes the form of a sole proprietorship, a partnership, a company, a Close Corporation or something else. SARS will then issue you with an income tax reference number.

What will I be required to do?

By the time you are required to register with the Receiver of Revenue, you will already have decided on the most appropriate form of business for your new enterprise. If you have recently formed and registered a new Company or a new Close Corporation with CIPRO (see Section 2), you will now be in a position to register your business with your local SARS branch office for tax purposes.

Remember that in this section we are only looking at the registration of a new Company or a new Close Corporation. For registering a Sole Proprietorship or Partnership please refer to the section below.

The first step is to obtain and complete form IT/IB 77C or IT77C as it is sometimes referred to on the SARS website. The form can be obtained electronically at www.sars.gov.za. On the left hand side of the SARS Home Page you will see a block saying "FORMS", click on the word "GO". In the new page that appears on the second line down click on "Application for Registration of Income Tax". When the new page comes up click on IT/77C (do not click on IT/IB77).

Complete the form in full, using CAPITALS or BLOCK LETTERS, and ensure that you provide all of the information requested honestly and correctly.

LEGALITIES AND COMPLIANCES

15

Tip - As the IT/IB 77C or IT77C forms are fairly complex, it would be advisable to seek assistance from a qualified person such as an accountant when completing the form. If this is not possible, it is suggested that you visit your local SARS branch office as they have customer service desks where a qualified consultant will be happy to assist you in completing the form at no charge. If you decide to visit a customer service consultant, make sure you take all of the relevant information about your business with you.

Once the form has been completed, you can post it together with the supporting documentation, to your local branch office or the SARS office dealing with the area in which your business is located. For local branch office contact details - see above.

Tip - Make sure that you sign the form and more importantly, also make sure that you provide all of the required back-up documentation. Unfortunately this particular requirement is not mentioned either on the website or on the form.

The back-up documents that you must submit include:

1. A copy of your CK document. This is the registration document you would have received from CIPRO when you registered your Close Corporation or Company with them.
2. A certified and legible copy of the IDs of all of the members of your Close Corporation or Company (not driver's licenses).
3. Provide any ONE of the following -
 - A cancelled cheque (probably the easiest)
 - A certified (signed and stamped by the bank manager), legible copy of a bank statement clearly indicating the account holder's name, account number and branch number
 - An official letter from your bank manager on a bank letterhead confirming your name, account number and the bank's branch number

Alternatively hand the form and supporting documentation in at your nearest Receiver of Revenue branch office. They in turn will acknowledge receipt of your completed form or forms and after a period, provide you with a tax reference number.

Finally, don't forget that if you intend engaging employees in your new Close Corporation or Company, you will also need to register with SARS for Employer Tax purposes. See section 4.3 below.

3.2 Registering a Sole Proprietorship or Partnership for Tax Purposes

It is important to note that this section deals solely with the registration of Sole Proprietorships or Partnerships. If you have structured your new business as a Company or a Close Corporation, please consult the section above that deals with the registration of Companies and Close Corporations for tax purposes.

Explanation

Sole Proprietorship

A sole proprietorship is a business that is owned and operated by one person. This is the simplest structure for a business. The business has no existence and is not separate from the owner who is called the Proprietor (it is therefore not a legal person such as a company). The owner must include the income from such business in his/her own income tax return and is responsible for the payment of the taxes. Only the Proprietor has the authority to make decisions for the business. The Proprietor assumes the risks of the business to the extent of all of his or her assets whether used in the business or not.

Partnership

A partnership (or unincorporated joint venture) is the relationship that exists between two or more persons who join together to carry on a trade, business or profession. A partnership is not a separate legal person or taxpayer. Each partner is taxed on his or her share of the partnership profits. Each person may contribute money, property, labour or skills, and each will share in the profits and losses of the business. It is similar to a sole proprietorship except that a group of owners replaces the individual owner. The number of persons who may form a partnership is limited to twenty.

Why am I required to register?

Income tax is the State's main source of income and is levied on taxable income in

LEGALITIES AND COMPLIANCES

17

terms of the Income Tax Act. Income tax is levied on a variety of entities: individuals, Companies and Trusts. This means that even a small business - whether it takes the form of a private company, a sole proprietorship, a close corporation or a partnership – will be required to register and will be required to pay income tax.

Who is required to register?

All new and existing businesses are required to register with the South African Revenue Services (SARS). You must register with your local SARS branch office as soon as you start a business whether it takes the form of a sole proprietorship, a partnership, a company, a close corporation or something else. SARS will then issue you with an income tax reference number.

What will I be required to do?

By the time you are required to register with the Receiver of Revenue, you will already have decided on the most appropriate structure for your new business. Remember that in this section, we are only looking at the registration of a Sole Proprietorship or a Partnership. For registering a Company or Close corporation please refer to the section above.

The first step registering a Sole Proprietorship or a Partnership is to obtain and complete form IB/IT77 in order to register as a provisional taxpayer. If you have a Sole Proprietorship you will complete a single form, however if you have a Partnership it is important to note that each partner must complete an IB/IT77 form.

The form (IB/IT77) can be obtained electronically at www.sars.gov.za. On the left hand side of the SARS Home Page you will see a block saying "FORMS", click on the word "GO". In the new page that appears, on the second line down click on "Application for Registration of Income Tax". When the new page comes up click on IB/IT77 (do not click on IT/77C) Make sure you print as dark a copy as possible otherwise the form will be very difficult to read and complete. You can also obtain a copy from your local branch office of the Receiver of Revenue (see list above).

Complete the form in full, using CAPITALS or BLOCK LETTERS, and ensure that you provide all of the information requested honestly and correctly.

LEGALITIES AND COMPLIANCES

18

Tip - As the IB/IT77 form is fairly complex, it would be a good idea to seek assistance from a qualified person such as an accountant when completing the form. If this is not possible, it is suggested that you visit your local SARS branch office as they have customer service desks where a qualified consultant will be happy to assist you in completing the form. If you decide to visit a customer service consultant, make sure you take all of the relevant information about your business with you. If you decide to complete the form yourself and are having difficulties in any particular area as a result, you can phone the National Call Centre on 0860 121 218. You will find them very helpful.

Once the form has been completed, you can post it together with the supporting documentation, to your local branch office or the SARS office dealing with the area in which your business is located. For local branch office contact details -see above.

Tip - Make sure that you sign the form and, more importantly, make sure that you provide all of the required back-up documentation.

1. A certified and legible copy of your ID (not driver's license)
2. If you have entered your bank details on the IB/IT77 form then you must provide any ONE of the following:
 - A cancelled cheque (probably the easiest)
 - A certified (signed and stamped by the bank manager) legible copy of a bank statement clearly indicating the account holder's name, account number and branch number
 - An official letter from your bank manager on a bank letterhead confirming your name, account number and the bank's branch number
3. Income details for the last three years (either copies of IRP5s or IT3s).

Alternatively, hand the form and supporting documentation in at your nearest Receiver of Revenue branch office. They in turn will acknowledge receipt of your completed form/s and after a period, provide you with a tax reference number.

Finally, do not forget that if you intend engaging employees in your new Sole

Proprietorship or Partnership, you will also need to register with SARS for Employer Tax purposes. See Section 5.

4 QUALIFYING AND REGISTERING FOR VALUE-ADDED TAX

Which authority will I be dealing with?

You will be dealing with the South African Revenue Services or SARS as they are better known. Contact details for SARS are provided under Section 3.

Why am I required to register for Value-Added Tax?

Value-Added Tax (or VAT, as it is more commonly known) is a government taxation levied on all businesses in South Africa whose total value of taxable supplies or annual turnover exceeds a certain level.

When a registered VAT vendor is supplied with goods or services by another registered vendor VAT is then charged by the supplier of those goods or services. The vendor acquiring the goods subtracts the input VAT (VAT borne by the vendor) from the output VAT (VAT charged by the supplying vendor). The difference is VAT payable to or refundable by the South African Revenue Services (SARS). The net effect is that VAT is paid by the final consumer of goods and services.

VAT is charged at the standard rate of 14% but certain supplies are subject to what is called a zero rating or are exempt from VAT. It is important to note that VAT is levied on an inclusive basis, which means that VAT has to be included in all prices displayed on products, price lists, advertisements and quotations.

Who is required to register?

There are two forms of VAT registration.

1.) Compulsory – This applies to any person who runs a business whose total value of taxable supplies or taxable turnover exceeds, or is likely to exceed, R300 000 in any 12 month period.

LEGALITIES AND COMPLIANCES

20

Do not forget that although you may not qualify for compulsory registration at present, as the years go by and your business grows, you may exceed the R300 000 threshold and you will then be required to register.

It is also important to note that the Receiver of Revenue often reviews the R300 000 annual figure and as a result it may go up or down over the coming years. If you are unsure of the annual figure, you should contact your local Receiver of Revenue branch office every year or alternatively contact the National Call Centre on 0860 121 218.

2.) Voluntary – Under certain circumstances the VAT Act allows a person to register their business even although their taxable turnover does not exceed or is not expected to exceed R300 000 in any 12 month period.

Tip - Voluntary registration can often be a wise business decision even although the compulsory requirement does not apply to you. This is because it will allow the purchasing vendor or your clients (those you do business with) to claim the VAT incurred on the supply of your services. If, on the other hand, the majority of your clients are not registered for VAT and the compulsory requirement does not apply to you, it will generally not be advantageous to voluntarily register.

There are a number of conditions under which you can voluntarily register for VAT, the most likely one being applicable to any person who operates a business whose total value of taxable supplies (taxable turnover) exceeded R20,000, but did not exceed R300,000, in the preceding 12 month period. A quick call to your local SARS office will clarify the situation for you. It is, however, important to note that no registration will be allowed if your annual turnover is below R20,000.

What will I be required to do?

Having found out whether or not you are required to register or if you have decided to register voluntarily, you will need to obtain and complete the necessary form. Compulsory registration should be made within 21 days of becoming liable to register.

The registration form VAT 101 can be obtained electronically at www.sars.gov.za or

LEGALITIES AND COMPLIANCES

21

from your local branch office of the Receiver of Revenue.

Tip:

It may be an idea to collect the VAT 101 form from the nearest office as this will allow you to speak to a client services consultant who will guide you through the completion of what is a fairly complex form.

For those who are not able to visit a SARS office, the VAT 402 guide, (available at www.sars.gov.za) will assist you in completing the VAT 101 form.

Tip - When collecting the VAT 101 form from your nearest SARS office it would also be advisable to speak to client services about the small retailers VAT package that was introduced early in 2006. This package provides qualifying vendors with a simplified method of accounting for VAT. The package will only apply to vendors:

- that are registered for VAT
- with a turnover of less than R1 million
- mainly in the retail sector
- that do not have access to cash registers that can distinguish between zero-rated and standard-rated sales

Although not part of the registration process, there is additional information regarding VAT returns, the duties of a VAT vendor and the Voluntary Disclosure Dispensation that will be of interest to you and is provided below.

Returns: From 1 August 2005, small businesses with a turnover of less than R1 million only have to submit VAT returns every four months.

Duties of a Vendor: Once you have registered you will have certain responsibilities including:

- Providing correct and accurate information to SARS
- Submitting returns and payments on time
- Including VAT in your prices, advertisements and quotes
- Keeping accurate accounting records
- Producing relevant documents when required to do so by SARS
- Notifying SARS about any changes to your business, namely its address,

LEGALITIES AND COMPLIANCES

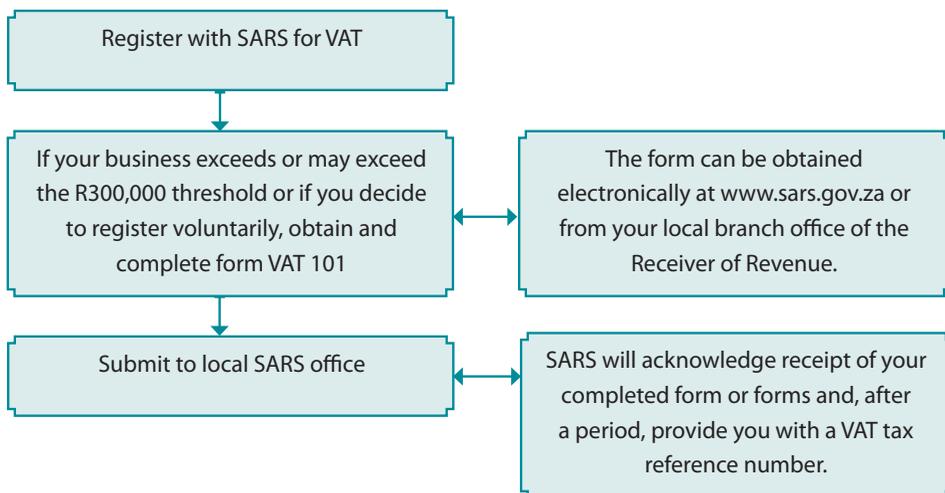
22

- trading name, partners / members / shareholders, bank details and tax periods
- Issuing tax invoices, debit and credit notes
 - Notifying SARS of any changes of the details of the representative person

Your failure to meet the above responsibilities could result in penalties being payable and prosecution, additional fines and/or imprisonment.

Tip - If you qualify as a VAT vendor and for some reason or another you have not as yet registered you might like to consider the following:

“Retailers who are not currently registered for VAT are encouraged to come forward and register voluntarily. The SARS Voluntary Disclosure Dispensation allows for the conditional waiving of penalties or additional tax provided that the taxpayer approaches SARS voluntarily before an investigation of his or her affairs has commenced.”



5 REGISTERING FOR EMPLOYEE TAX, SKILLS DEVELOPMENT AND UIF

It is important to note from the outset that this section deals solely with the registration as an Employer for Tax purposes. No matter which form of business you have decided to adopt, whether it is a Company, Close Corporation, Sole Proprietorships or Partnerships and if you intend or have already engaged employees to work for you, you will need to register for Employer Tax purposes.

Which authority will I be dealing with?

You will be dealing with the South African Revenue Services or SARS as they are better known. Contact details for SARS are provided under Section 3.

Why am I required to register?

Income tax is the State's main source of income and is levied on taxable income in terms of the Income Tax Act. Income tax is levied on a variety of entities: individuals, employees, close corporations, companies and trusts.

Who is required to register?

All new and existing businesses (no matter what form or structure they may take), are required to register with the South African Revenue Services (SARS) for Employer Tax purposes if they intend or have already, engaged employees. So, if you have engaged one or more employees then this registration requirement will apply to you.

What will I be required to do?

The first step in registering a Company, Close Corporation, Sole Proprietorship or Partnership for Employer Tax purposes is to obtain and complete form EMP101e. The form EMP101e can be obtained electronically at www.sars.gov.za. On the left hand side of the SARS Home Page you will see a block saying "FORMS", click on the word "GO". In the new page that appears, about nineteen lines down, click on PAYE/SDL/UIF and when the new page comes up click on EMP101e. (if you would prefer a copy of the form in Afrikaans click on EMP 101)

If you intend downloading a copy of the form, make sure you print as dark a copy as

LEGALITIES AND COMPLIANCES

24

possible otherwise it will be very difficult to read and complete.

You can also obtain a copy from your local branch office of the Receiver of Revenue (see list above).

Important Note – Form EMP101e is multi-functional. By completing and submitting the form you will not only be registering as an Employer for tax purposes but you will automatically be registering in terms of the Skills Development Levy (SDL) and in terms of the requirements of the Unemployment Insurance Fund (UIF). The registration, requirements and commitments, in terms of the Skills Development Levies Act and the Unemployment Insurance Act are explained in more detail at the end of this section.

Complete the form in full, using CAPITALS or BLOCK LETTERS, and ensure that you provide all of the information requested honestly and correctly.

Tip - As the EMP101e is fairly complex, it would be advisable to seek assistance from a qualified person, such as an accountant, when completing the form. If this is not possible, it is suggested that you visit your local SARS branch office as they invariably have customer service desks where a qualified consultant will be happy to assist you in completing the form. If you decide to visit a customer service consultant, make sure you take all of the relevant information about your business with you. If you decide to complete the form yourself and are having difficulties in any particular area as a result, you can phone the National Call Centre on 0860 121 218, and you will find them very helpful.

Once the form has been completed you can post it to your local branch office or the SARS office dealing with the area in which your business is located. For local branch office contact details - see above.

Tip - Make sure that you sign the form and more importantly, make sure that you provide all of the required back-up documentation. The list of attachments required is fairly lengthy and can be found on the last page of form EMP101e.

Alternatively hand the form and supporting documentation in at your nearest Receiver of Revenue branch office. They in turn will acknowledge receipt of your completed form or forms and, after a period, provide you with your tax reference

number. In addition, once your business has been registered in terms of form EMP101e, you will receive Form EMP201 on a month by month basis from SARS in which you will declare your tax liabilities for PAYE, SDL and UIF.

Additional information

1. Registration for payment of Skills Development Levy

Where an employer is liable to pay the levy he/she must register by completing and submitting the EMP101e (Application for Registration) form to the SARS office in the area in which the business is situated. The jurisdiction of the SETA within which the employer must be classified as well as the SIC codes must also be indicated on the form.

You can look up the appropriate Standard Industrial Classification Codes (SIC codes) on the Stats SA website at www.statssa.gov.za but it is a fairly complex process. It may be advisable to call the Tourism, Hospitality & Sport Education and Training Authority (THETA) on 011 803 6010 to discuss the appropriate SIC code applicable to your particular business category.

Although certain employers are exempt from paying the Skills Development Levy, they are NOT exempt from registration in terms of section 5(6) of the Skills Development Levies Act. In other words, the employer must still register by completing the EMP101e form.

However an employer who, during any month, within reasonable grounds believes that the total leviable amount payable to his/her employees during the following twelve month period will not exceed R500 000, is not required to pay the levy.

The levy (currently 1% of the payroll) is used for funding education and training of employees. It is calculated as a percentage of a leviable amount, which is more or less equal to the earnings of the employees. The monthly return for the SDL is combined with the monthly return for an employee's tax (EMP201), which means that the same terms and conditions apply for submission and payment.

2. Registration for payment of Unemployment Insurance

The Unemployment Insurance Fund (UIF) insures employees against the loss of earnings due to termination of employment, illness and maternity leave. A monthly contribution has to be made by the employer (1%) and the employee (1%) based on the earnings of the employee. The contributions are calculated as a percentage of the remuneration paid to the employee for services rendered. An employer who is registered for employees' tax or the Skills Development Levy is automatically registered for U.I.F contributions. Please note that a Sole Proprietor or members of a Partnership as individuals are not required to register for UIF.

6 REGISTERING YOUR BUSINESS WITH THE WORKMEN'S COMPENSATION FUND

Who is required to register?

All employers who employ one or more employees in connection with their business are required to register with the Compensation Fund. All registered employers (with a few exceptions) pay an annual assessment fee. A separate registration is necessary for each separate branch of a business unless an arrangement with the Compensation Commissioner has been made for a combined registration.

Why am I required to register?

The objective of the fund is to provide compensation for any disablement caused by injuries and or diseases that are sustained in the workplace. These injuries or illnesses often come about as a result of the type of work or working conditions under which the employee is placed.

All employers must register with the Compensation Fund so that their workers can claim compensation for occupational injuries and diseases sustained at work.

Note: As an employer and for as long as you are registered, you will be protected against a possible civil claim if an employee is injured while working for you.

LEGALITIES AND COMPLIANCES

27

Which authority will I be dealing with?

You will be dealing with the Compensation Commissioner who is based in the offices of the National Department of Labour in Pretoria. However in order to register you may contact the Labour Centres or Provincial Labour Offices nearest to you.

How do I make contact with them?

The National Compensation Offices

Postal Address	The Compensation Commissioner PO Box 955 Pretoria 0001
Physical Address	The Compensation Commissioner Compensation House Corner of Hamilton Street and Soutpansberg Road Pretoria.
Telephone	012 319 9370
Fax	012 323 5023
Email	cfinfo@labour.gov.za
Website	www.labour.gov.za

The Provincial offices and Local Labour Centres

Provincial and local labour offices are located throughout the country. To obtain the physical address and/or contact details of an office near you, you can either refer to your local telephone directory or you can go on line to www.labour.gov.za – click on “Centres & Offices” (top of the home page) then choose either Provincial Offices or Labour Centres in your particular province. You will then be provided with all of the contact details together with the operating hours of all of the labour offices in that province.

LEGALITIES AND COMPLIANCES

28

Tip - Some of the telephone numbers and email address are either very old or no longer functioning. A suggestion is to either phone Telkom enquiries on 1023 to request the new number, or to email the Pretoria head office on cfinfo@labour.gov.za and ask for the correct contact details for your nearest office.

Provincial and local Labour Offices are located in the following areas:

Eastern Cape
Free State
Gauteng North
Gauteng South
KwaZulu-Natal
Limpopo
Mpumalanga
North West
Northern Cape
Western Cape

What will I be required to do?

You will need to obtain Form W.AS.2 – “Registration of Employer with Compensation Fund” from either the Commissioner’s Office in Pretoria or from one of the labour centres or offices near you. Alternatively you can obtain it on line at www.labour.gov.za.

To obtain it online, click on “Compensation for Occupational Injuries and Diseases” on the left of the home page. Scroll down to “Forms and Sample Documents”, then click on “More Forms and Sample Documents” When the page opens, scroll down and click on “Form - COID - W.AS.2 - Registration of an Employer with the Compensation Fund” and finally click on “Form - COID - W.AS.2 - Registration of Employer with the Compensation Fund”.

Once you have obtained a copy of the form make sure that you:

- Fill in all of the questions on the form. If the Compensation Fund has to follow up on information that you omitted, it will delay the registration process

LEGALITIES AND COMPLIANCES

29

- Complete the form in CAPITALS
- Attach a copy of the registration certificate from the Registrar of Companies if you have set up a Company or Close Corporation
- Attach a copy of your ID document if you have set up a sole Proprietorship, or copies of the IDs of all of the partners if you have set up a Partnership

Once you have completed the form in full (in capitals) and have attached the required documents, you can either post it to the Compensation Commissioner in Pretoria or to your local labour centre. Alternatively, you can deliver it at either of the above in person.

What happens next?

The Compensation Commissioner's Offices will process the form and advise you when your business has been registered. You will not be required to make any payment at this time. Wait for the notice of assessment.

From April of every year, the Compensation Fund will send you a notice of assessment that explains how much you are required to pay. This is done throughout the year and it is not possible to predict when you will receive your notice. The date by which employers must pay the assessment is printed on the notice. It is usually within 30 days of when the notice was sent.

If you do not receive an assessment for a whole year, then you should make contact with the Compensation Fund to find out if there is a problem.

7 REGISTRATION AS AN EMPLOYER WITH A BARGAINING COUNCIL

Why am I required to register?

Employers and employees in the restaurant and catering trade got together some years ago and registered a number of bargaining councils for the purposes of negotiating and agreeing salaries and conditions of employment for their sector in various demarcated areas. As a result, all restaurant and catering trade establishments who were located in the areas covered by the various councils were required to join and to implement the various wage structures and conditions of

LEGALITIES AND COMPLIANCES

30

employment laid down in their particular collective agreement.

Which authority will I be dealing with?

Today there are only two industry specific bargaining councils remaining. The first is the Bargaining Council for the Restaurant, Catering and Allied Trades, based in Johannesburg. It covers the magisterial districts of Alberton, Benoni, Boksburg, Brakpan, Delmas, Germiston, Johannesburg, Kempton Park, Krugersdorp, Randburg, Randfontein, Roodepoort, Springs and Westonaria.

The second is the Bargaining Council for the Tearoom, Restaurant and Catering Trade based in Pretoria. It covers the magisterial districts of Pretoria, Brits, Bronkhorstspuit, Cullinan, Rustenburg, Warmbaths, Witbank and Wonderboom as well as the municipal area of Midrand.

Who is required to register?

If you run a restaurant or food outlet or are part of the catering trade and your establishment is located in the areas demarcated by either one of the two Councils mentioned above, then you will be required to register. The particular employment conditions as laid out in that council agreement will apply to your business and to your employees.

Tip - It is important to note that hotels, game lodges, B&Bs, guest houses, etc. whose core business is the sale of accommodation (irrespective of whether or not they serve food to their clients) do not fall under either one of the Bargaining Councils.

Each of the Councils makes provision for employment conditions related to the catering trade in their demarcated magisterial or municipal areas and covers all employers and employees.

These collective agreements make provision for matters such as categories of employment, hours of work, annual leave, maternity leave, night work, overtime, public holidays, meals and transport, etc., In addition to the employment conditions, each agreement provides a salary and wage schedule that lays out the exact weekly or monthly minimum wage due to each category of employee. Categories

LEGALITIES AND COMPLIANCES

31

of employees cover various job descriptions such as cooks, chefs, cashiers, barmen, managers, waiters, wine stewards and many more.

How do I make contact with them?

Bargaining Council Johannesburg

Telephone	011 339 2834/ 5
Fax	011 339 2804
Physical Address	No 27 Melle Street 7th Floor RSA centre Braamfontein
Postal Address	PO Box 30822 Braamfontein 2017
Contacts	Brian (CEO)
Cell	083 459 7265 Jaku Malan (legal)
Cell	082 856 3113

Bargaining Council Pretoria

Telephone	012 322 3493
Fax	012 322 3845
Physical Address	c/o Andries & Schoeman Streets 4th Floor SALU Building Pretoria
Postal Address	PO Box 1256 Pretoria 0001
Email	caterc@mweb.co.za

What will I be required to do?

The best and most efficient way to register with either Council is to request that an agent visit your establishment. Not only will the agent cover the registration process

LEGALITIES AND COMPLIANCES

32

and the various costs involved, but he or she will be in a position to talk to your employees and explain the various costs and benefits associated with the Council.

Should you decide to register directly, the best method would be to fax a request to the appropriate Council requesting a copy of the Bargaining Council Registration form. Ensure that you enquire as to the process and method of monthly payment.

Tip - Specifically mention that you require the Council registration form and not the Employers Association registration form as membership of the Employers Association is voluntary.

Registration and Membership Costs (at the time of writing)

Johannesburg Council

You will be required to pay the following:

Registration Fee	R25 per month, 100% by the employer
Employee Levy	R10 per employee per month, 50% employer 50% employee
Dispute Levy	R6 per employee per month, 50% employer 50% employee
Funeral Levy	R25 per employee per month, 50% employer 50% employee

Pretoria Council

You will be required to pay the following:

Employee Levy Total R16.96. Employees pay R7 and employers R9.96 per month. At the time of writing, the Council was drawing up a Funeral Benefit Scheme but it had not yet been implemented.

In the case of both Councils, you have to complete a form every month detailing your payment. The forms are not the same for each Council, however, so make sure that you ask about the monthly statement and payment process when you register.

Tip - It is quite possible that an employer may not be aware that his or her business is covered by the Council so it is advisable to check before assuming that you might be excluded. If you are at all unsure as to whether or not your business falls under one of the councils or if you are looking for a copy of the employment conditions agreement, call the appropriate Council. Remember - ignorance of the law is no excuse!

8 REGISTRATION IN TERMS OF THE NATIONAL WATER ACT

Why am I required to register?

South Africa's scarce water resources are under increasing pressure and will need to be wisely managed in the coming years. In order to achieve this, the Department of Water Affairs and Forestry needs to know how much water is being used, by whom, and where. The Department can then ascertain how much water is actually available for use and effectively manage the future sustainability of the country's water resources.

The National Water Act 36 of 1998 gives the Department of Water Affairs and Forestry the wherewithal to gather the required information for the optimal management of all of the country's water resources. The registration of water use is one of these tools.

All water users who have been instructed to register have a statutory obligation to do so and there are strict penalties (prescribed within the Act) for those who do not comply.

Who is required to register?

The following water users must register their water use: All water users, who do not receive their water from a service provider, local authority, water board, irrigation board, government water scheme or other bulk supplier and who are using water for:

- irrigation;
- mining purposes;
- industrial use;

LEGALITIES AND COMPLIANCES

34

- feedlots; or
- in terms of a general authorisation.

Other uses that must be registered include:

- Diversion of rivers and streams
- Discharges of waste or water containing waste
- Storage. Any person or body storing water for any purpose (including irrigation, domestic supply, industrial use, mining, aqua culture, fishing, water sport, aesthetic value, gardening, landscaping, golfing, etc.) from surface runoff, groundwater or fountain flow in excess of 10,000 cubic litres.
- Stream flow reduction activities. All tree planting for commercial purposes.
- Local authorities and other bulk suppliers with their own water sources and purification works.
- Controlled activities such as irrigating with waste, power generation with water, atmospheric modification or recharging an aquifer.
- Using water for recreational purposes

Therefore, if you have a business that is likely to use water for recreation or consumption and you use your own water sources, you will have to register. This could include a fishing lodge with trout dams or other such facilities.

Who does not need to register?

If you receive water from a local authority, a water board, an irrigation board or another bulk water supplier you do not need to register that use. The Department will register you if required and send you a certificate or a semi-completed application to fill in.

Which authority will I be dealing with?

You will be required to make contact with the regional office of the Department of Water Affairs and Forestry in the area in which your business is located.

LEGALITIES AND COMPLIANCES

35

How do I make contact with them?

Eastern Cape

Tel 043 642 1045
 Fax 043 642 1737
 Private Bag X7485
 King William's Town
 5600

Free State

Tel 051 430 3134
 Fax 051 430 8146
 PO Box 528
 Bloemfontein
 9300

Northern Cape

Tel 053 831 4125
 Fax 053 831 5682
 Private Bag X6101
 Kimberley
 8300

Mpumalanga

Tel 013 752 4183
 Fax 013 752 4185/755 1678
 Private Bag X11259
 Nelspruit
 1200

North West

Tel 018 384 3270
 Fax 018 392 2998
 Private Bag X5
 Mmabatho
 2735

KwaZulu-Natal

Tel 031 336 2700
 Fax 031 305 9927
 PO Box 1018
 Durban
 4000

Western Cape

Tel 021 950 7100
 Fax 021 946 3664/ 6
 Private Bag X16
 Sanlamhof
 7532

Gauteng

Tel 012 392 1300
 Fax 012 392 1408
 Private Bag X995
 Pretoria
 0001

Northern Province

Tel 015 295 9410
 Fax 015 295 3215
 Private Bag X9506
 Polokwane
 0700

For additional information, access the National Departments website on www.dwaf.pwv.gov.za.

What will I be required to do?

You will be required to complete and submit whichever form is appropriate to your circumstances. If you are in any doubt, it is recommended that you contact the appropriate regional office and discuss the matter with them. Once you have obtained confirmation on what you are required to do and/or which form or forms you are required to submit, you can download a copy or copies from the following website: www.dwaf.gov.za/Projects/WARMS.

LEGALITIES AND COMPLIANCES

36

Select the appropriate form or forms for completion and submit them to your Regional Water Affairs Office.

Form	Applicable to:
DW756/769	Individuals
DW758/771	Company, Business or Partnership
DW760	Taking water from a water resource
DW761	Storing water
DW762	Storing water - dam registration
DW763	Impeding or diverting the flow of water in a watercourse
DW764	Engaging in a stream flow reduction activity
DW765	Engaging in a controlled activity - irrigation of any land with waste or water containing waste generated through any industrial activity or by a water work
DW766	Discharging waste or water containing waste into a water resource through a pipe, canal, sewer, sea outfall or any other conduit
DW767	Disposing of waste in a manner which may detrimentally impact on a water resource
DW808	Waste disposal facility
DW768	Altering the bed, banks or characteristics of a watercourse
DW805	Removing, discharging or disposing of water found underground if it is necessary for the efficient continuation of an activity or for the safety of people
DW806	Using water for recreational purposes

9 REGISTER WITH SAMRO

Who is required to apply for a license?

If you are a background or incidental music user, if you provide television viewing facilities in bedrooms or public areas or if you play music throughout or in parts of your premises for the benefit of your clients and the public, you will be required to obtain a license and pay an annual fee to SAMRO.

LEGALITIES AND COMPLIANCES

37

Music users are broken down into different groups:

- essential users (e.g. broadcasters, promoters and others)
- necessary users (e.g. discotheques, nightclubs, etc.)
- background users (e.g. coffee shops, restaurants and accommodation establishments)
- incidental users (e.g. cafes and hair salons)

Tour operators who play music to passengers in their vehicles also need to obtain a license from SAMRO.

Why am I required to apply for a license?

As a user of copyright music, it is a requirement under the South African Copyright Act that you pay for the music that is broadcast or “diffused” at your establishment. SAMRO is part of a worldwide movement to protect composers and to provide them with equitable remuneration for the use of their works.

According to copyright law, not only the person performing music in public is liable, but also the proprietor of the premises who permits their premises to be used for such performance or diffusion in public. It is the policy of SAMRO to look to the owner of the venue, not the performer, for payment of the license fees.

Which authority will I be dealing with?

You will be dealing with the South African Music Rights Organisation (SAMRO) who is the southern African representative for all music performing rights. It is an association of composers, authors and publishers of copyright musical works and it acts as a collective administration society that negotiates licenses with commercial music users.

Contact details

Physical Address	SAMRO House 73 Juta Street Braamfontein 2001
------------------	--

LEGALITIES AND COMPLIANCES

38

Postal Address	PO Box 31609 Braamfontein 2017
Website	www.samro.org.za
Telephone	011 489 5191 or 489 5000
Fax	011 403 1934
Licensing Email	customerservices@samro.org.za

What will I be required to do?

You can obtain a copy of the license application form online from their website. You will need to print it out, complete it and then either fax or post it to SAMRO. One caution: at the moment the form takes a while to download so it would perhaps be advisable to email SAMRO at customerservices@samro.org.za, telephone them on 011 489 5191 or fax them on 011 403 1934, requesting an application form. They, in turn, will either fax or post the form to you together with their tariff sheet. SAMRO issues licenses to music users either on an annual basis (for places where music is performed regularly) or, if required, for a season or even for a single performance such as concert.

On completion of the form you can either fax or post it back to them. You will not be required to pay a fee at this stage. As a result of the information you provide on the form, they will calculate and advise you of the correct annual fee. They have a variety of tariff scales drawn up to suit the particular circumstances of each premises or type of musical performance. They will forward you an invoice and you will receive your license once it has been paid. Please note that license fees are renewable annually on the anniversary date. SAMRO will send you a reminder each year.

Every license issued by SAMRO requires the licensee to submit regular “returns” or lists of the musical works performed in their establishments. These returns enable SAMRO to distribute the royalties to the composers and other rights holders whose works have been performed. However, in order to make things a little easier, they do not need returns from establishments that provide only radio or television transmissions. These details they get directly from M-Net, SABC and other broadcasting stations.

Tip – The “returns” submission is not as complicated as it may sound. If you only play music from a radio or from a television set(s) then you will not be required to send any of the additional information mentioned above. If you play CDs, you will only have to list the names of the artists and the albums.

10 OBTAINING A TRADE LICENSE

Who is required to apply for a Business or Trade License?

If you are running any one or more of the following businesses or activities you will need to apply for a Business or Trade License.

1. The selling or supplying of meals, take-aways or perishable foodstuff

Note - If you are planning to open, or you currently run, an accommodation establishment, restaurant, coffee shop, pub, tavern or shebeen where food is served, you must have a valid business or trade license. This also applies to any other form of business that sells food for consumption (either on or off the premises) or manufactures or transports food in any form.

2. Operating

- Turkish baths, saunas and health baths
- massage or infra-red treatments
- male and female escorts
- three or more slot machines and electronic games
- three or more snooker or billiards tables
- nightclubs and discotheques where live or loud music is played
- cinemas and theatres
- adult premises

Please note that if you are opening a business that requires a license, you may not (unless otherwise authorised by the authority) begin trading before a license has been issued. Trading without a valid license is a punishable offence.

LEGALITIES AND COMPLIANCES

40

Tip – A lot of confusion occurs with regard to Business or Trade License applications and the possible need for a particular certificate or permit to carry out a certain activity. Business or Trade License requirements are governed by the National Business Act and apply throughout the country, whereas permits and certificates are generally issued in terms of local authority by-laws. These by-laws tend to differ from municipality to municipality.

When enquiring about or making application for your Business or Trade License, it is important that you establish whether or not your proposed business will require an additional permit or certificate of any kind, over and above the Business or Trade License.

Why am I required to apply for a Business License?

Licensing is governed by the Business Act No 71 of 1991, which is a national law. Before 1991, you had to apply for a license to open any business in South Africa, regardless of the type. This has, however, now changed and, as a result, you will only be required to apply for a Business or Trade License if you plan to open any one or more of the business types listed above.

The main reason for the licensing process is to allow the local authorities to keep a record of the various types of businesses in their area of jurisdiction. This allows them to ensure that each business requiring a license complies with building codes, health and fire regulations and safety requirements.

Tip - Many prospective business owners believe that a trading or business license is not a particularly important requirement and that it is just another method the local authorities use to acquire additional revenue. This is not the case. A trade license not only permits you to trade in a certain area and to carry out a particular activity, but it will ensure that your business and the business premises meet all of the building, public safety and health requirements.

Which authority will I be dealing with?

Depending on the location of your business or proposed business, you will either be dealing with a metropolitan council, a local town municipality or an area district

council. Either way (and in ninety percent of the cases), you will be dealing with the Licensing Office or Licensing Department in that municipality or council.

Tip – The application for a Business or Trade License should not be confused with an application for a Liquor License. If you supply meals and, in addition, intend to supply and sell liquor on your premises, you will require a Business or Trade License as well as a Liquor License.

Contact details

Unfortunately, the list of metropolitan councils, local town municipalities and area district councils is endless. To obtain the address and contact details of the appropriate department it is suggested that you either consult your local telephone directory, dial Telkom 1023 and ask for the contact number of your applicable council or you could try a search on the web.

How do I apply for a Business or Trade License?

Rather than traipsing all over the town or city, it is suggested that you initially contact your local council by telephone in order to find out whether or not you are required to apply for a Business or Trade License. You should then establish where you are required to go in order to obtain all of the necessary information and appropriate forms. This will undoubtedly save you a lot of time and frustration.

On receipt of the form (or in some cases more than one form), you will be required to complete it in full and, in addition, provide all of the supporting documentation required or specified.

For example, in the case of companies, close corporations and partnerships, copies of certificates and founding documents must be attached. Copies of the ID documents of the directors, members or partners are required as well as that of the manager or person in charge. Applications from restaurants and eateries must be accompanied by a copy of the menu.

Note - Some councils may charge you a small fee for the various forms but this does not appear to happen very often. If it does, it is not likely to exceed R30.00.

LEGALITIES AND COMPLIANCES

42

Tip – When collecting the form, make sure that you double check with the licensing representative exactly what additional information they will require. Often the form does not list all of these requirements.

Once you have completed the form and attached the necessary documentation, return to the relevant licensing office and submit the application. A once-off fee, which changes from year to year and possibly from council to council, must be paid. The fee is likely to range between R300 and R400. There are no annual renewal requirements.

Tip - Make sure that the Licensing Department issues you with proof of application and payment of fees before leaving.

What happens then?

Broadly speaking (because it may differ from council to council), the licensing department will draft a report and send it to the various municipal departments involved in the process.

These departments are likely to be:

- Environmental Health
- Noise and Air Pollution Control
- Public Safety and Emergency Services - Fire Safety
- Urban or Rural Planning
- Building Control

It will then be the responsibility of each of these departments to ensure that, as a result of a site inspection, your business complies with:

- any law that relates to health and safety;
- any law and/or Town Planning Scheme which relates to land use rights;
- any law applicable to building control in compliance with the National Building Regulations and Building Standards Act, 1977;
- any law applicable to noise and air pollution, and;
- any law applicable to public safety.

LEGALITIES AND COMPLIANCES

43

What normally occurs is that each department sends out an inspector who, in turn, compiles a report confirming that your business conforms to the various regulations pertaining to building, health and fire safety.

Although the requirements listed above appear onerous, you should bear in mind that either your landlord (if you are leasing or renting) or your architect and builder (if you are building a premises) should have either advised you, or alternatively, ensured that all of these requirements have been met.

Tip - If you are about to rent or lease a property, make sure that the property owner has complied or is aware of all the requirements. If that is not possible, make sure that you discuss and agree who will be responsible for any additional costs that might result from having to make alterations and/or additions to the premises in order to obtain a Business or Trade License.

Tip - If you are about to build a new premises or alter an existing one, discuss the Business or Trade License requirements with both your architect and builder so as to ensure that all of the requirements have been taken into account.

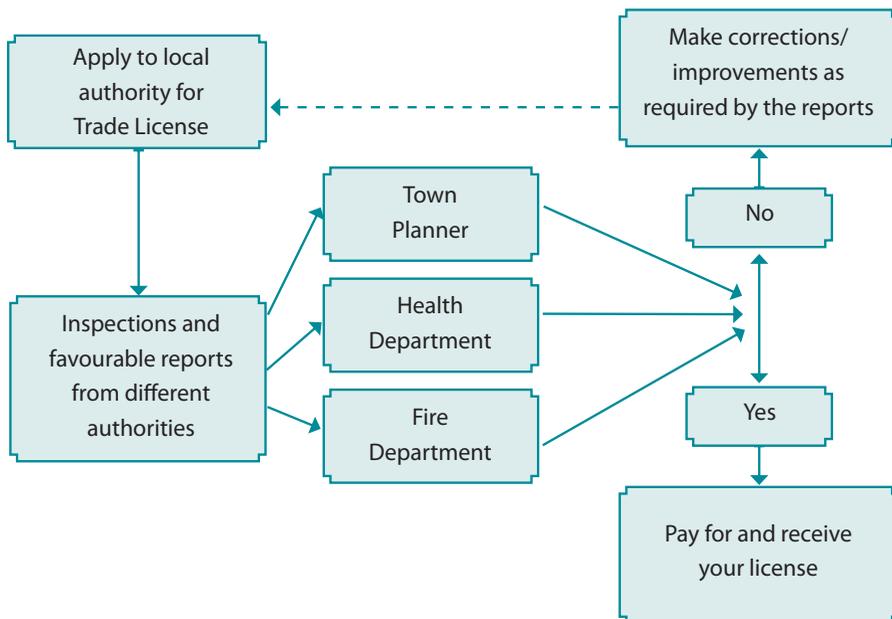
If, after the site inspection, the various department representatives indicate that additional requirements need to be met, the Trade License Department will send you notification thereof. You will then need to comply with these additional requirements and arrange for a re-inspection with the department representative concerned.

Once the approval of all five departments has been received, the Licensing Department will issue a Business or Trade License. The license remains valid until such time as ownership changes or the activity specified on the license changes. The license is not transferable from one owner to another or from one premises to another. Once the trading license has been granted, the premises may be inspected from time to time by a representative from any one or more of the departments.

LEGALITIES AND COMPLIANCES

44

Process



11 LOCAL GOVERNMENT BY-LAWS

As a small business, you will not only be required to adhere to many of the national and provincial business laws, but in all probability you will be required to adhere to laws put in place by your local authority or municipality as well. These are called by-laws. Most by-laws will cover matters such as:

- Air pollution
- Building regulations
- Cleansing
- Control of undertakings that sell liquor to the public
- Electricity and gas reticulation
- Fencing and fences
- Fire fighting services
- Licensing and control of undertakings that sell food to the public
- Local tourism
- Municipal health services
- Municipal roads

- Noise pollution
- Public places
- Refuse removal
- Storm water management
- Street trading
- Trading regulations
- Traffic and parking
- Water and sanitation services

Unfortunately, it is not possible to cover all of the municipalities and all of the by-laws appropriate to each municipality. It is, however, very important for you to find out which by-laws apply to your business. Either phone or visit your local municipality and ask about which by-laws may affect the type of business you are involved in.

Examples of a few local or municipal by-laws include:

Johannesburg Metropolitan Municipality: Health by-laws for the accommodation industry

City of Johannesburg Metropolitan Municipality: Metered taxi, minibus, and bus by-laws

City of Johannesburg Metropolitan Municipality: Public health by-laws

City of Cape Town: By-Law relating to dumping and littering

City of Cape Town: By-Law relating to filming

City of Cape Town: By-Law relating to environmental health

12 CERTIFICATE OF ACCEPTABILITY FOR FOOD PREMISES

The R918 Regulations Governing the General Hygiene Requirements for Food Premises and the Transport of Food are enforced by municipal health inspectors or environmental health officers. They, inter alia, process applications for health certificates, inspect premises and issue certificates.

Please note that obtaining a Certificate of Acceptability for Food Premises is not a separate process. When you apply for your Trading License, the licensing officer at the local municipality will alert the public health department to inspect the premises. While the Health Inspector is at the premises, you will be required to fill in an

LEGALITIES AND COMPLIANCES

46

application for a Certificate of Acceptability for Food Premises.

The authority will inspect the premises and if they are satisfied that you meet the provisions for the regulations, will then issue a certificate or will grant an extension to the person in charge to make any necessary adjustments to comply with the regulations.

The certificate must be on public display on the premises or a copy must immediately be made available on request.

The certificate is issued in the name of the person in charge of the food premises. If this person is replaced, the authorities must be informed in writing within 30 days so that they can issue a new certificate. The certificate is, therefore, not transferable from one person to another. This certificate will expire if various provisions of the regulations regarding prohibitions are not met.

Tip: Rather put the certificate in the name of the owner of the business than the manager. Owners tend to stay on longer than the managers!

Who is required to have a certificate of acceptability?

According to the regulations a building, structure, stall or other similar structures (includes a caravan,) vehicle, stand or place used for, or related to, the handling of food.

Which authority will I be dealing with?

Your initial application will go to the local licensing authority – the municipality. You will then deal with the health department and health inspectors. The health inspectors have their own regulations governing how they inspect food premises, so this is consistently applied throughout South Africa.

What will I be required to do?

Apply for a Trade License then apply for the Certificate of Acceptability for Food Premises when the health inspector is at your premises.

Contact details

Contact your local municipality (licensing authority) and health department. You will find their contact details in the blue pages of the telephone directory.

13 OBTAIN A LIQUOR LICENSEWhich authority will I be dealing with?

As a result of changes to the National Liquor Act, the provincial authorities have taken over total responsibility for on and off consumption retail liquor licensing in South Africa. If you need to apply for a liquor license, you will now be required to deal with the liquor board in the province in which your business is situated.

Contact details**Eastern Cape Liquor Board**

Physical Address	No 34 Argyle Street East London
Telephone	043 701 8501
Fax	043 722 1492

Free State Liquor Board

Physical Address	Landbou Building No 98 Zastron Street Bloemfontein
Telephone	051 400 9482
Fax	051 400 9461

LEGALITIES AND COMPLIANCES

48

Gauteng Liquor Offices

Johannesburg Office

Physical Address Matlotlo (Finance) Building
 No 94 Main Street
 c/o Main and Harrison Streets
 Johannesburg

Telephone 011 355 8793

Fax 011 355 8083

Gauteng Regional Liquor Offices

Sedibeng

Ekurhuleni

Westrand

Tshwane

Metsweding

The contact details for the Regional Liquor Offices can be obtained by calling 011 355 8793.

KwaZulu-Natal Liquor Board

Physical Address Department of Economic Affairs
 Marine Building 1st Floor
 No 22 Gardner Street
 Durban

Telephone 031 310 5300

Fax 031 310 5432

Website www.kzn-deat.gov.za

Limpopo Liquor Board

Physical Address Nedbank Building - 11th Floor
 Schoeman Street
 Polokwane

Telephone 015 291 1859 or 291 2857

Fax 015 295 5740 (temporary line)

LEGALITIES AND COMPLIANCES

49

Mpumalanga Liquor Board

Physical Address	Provincial Department of Finance No 66 Anderson Street Nelspruit.
Telephone	013 752 3761
Fax	013 752 3729

North West Liquor Board

Physical Address	North West Development Corp Building c/o University Drive / Provident Street Mmabatho
Telephone	018 387 7891
Contacts	Patrick 082 685 1766 Hans 082 342 2838
Fax	018 387 7920

Northern Cape Liquor Board

Physical Address	Perm Building Joan Street Kimberley, 8300
Telephone	053 830 4800
Fax	053 830 4838
Contact Person	Johnnie Shai

Western Cape Liquor Board

Physical Address	6th Floor, Waldorf Arcade No 80 St Georges Mall Cape Town, 8001
Telephone	021 483 4498 or 483 3091
Fax	021 483 5066
Website	www.capegateway.gov.za
Email	Almaneve@pgwc.gov.za
Contact	Alexis Maneveld

LEGALITIES AND COMPLIANCES

50

Why am I required to apply for a liquor license?

Without a liquor license you will not be allowed to legally manufacture, distribute, sell or even give away liquor at no charge to the public. It is equally important to note that liquor distributors are not allowed to supply liquor to any trader who cannot produce a valid liquor license. Without a license, deliveries from wholesalers will become impossible.

Who is required to apply for a license?

Any person who wishes to manufacture, distribute, sell or give away liquor at no charge to the public will require a liquor license. There are various types of licenses. The National Department of Trade and Industry deals with licenses for manufacturers and distributors of liquor, while on and off consumption retail liquor licensing is administered by the provincial authorities.

If you are planning to open an accommodation establishment, a tavern or even a coffee shop, for example, and you plan to provide liquor for your clients, you will need an on consumption retail liquor license. If you plan to open a bottle store then you would require an off consumption or bottle store liquor license.

Tip – Many hospitality establishment owners, be they running an accommodation establishment or a restaurant, believe that if they provide liquor free of charge to their clients, they will not require a license. This is not correct. The various provisions provide for the supply of liquor to the public and not solely for the sale of liquor to the public.

What will I be required to do?

The procedures for the application of an on or off consumption retail liquor license will differ dependant on the location of the business for which the license will be required and on the particular provincial liquor board you will be dealing with.

Some of the provincial liquor license application requirements will be based on the National Liquor Act 27 of 1989 and others will be based on provincial liquor legislation. At the time of going to print, only the Eastern Cape and Gauteng had

LEGALITIES AND COMPLIANCES

51

promulgated their Provincial Liquor Acts.

The Free State, KwaZulu-Natal, Limpopo, Mpumalanga, North West, Northern Cape and Western Cape were in the process of drafting their provincial liquor legislation. As a result, all applications in these provinces will be made in terms of the National Liquor Act 27 of 1989.

Tip - It is very important that at the time of making your application you check with the relevant provincial liquor board as to the exact requirements and whether or not they have finalised and or published their Provincial Liquor Act and Regulations.

The procedures for the application of a retail on or off consumption liquor license, notwithstanding the differences between the national and provincial requirements, are lengthy and detailed and it is, therefore, not possible in this publication to go into such detail.

The following information has been provided in order to give you an idea of what is likely to be required. Please ensure that you contact the applicable provincial liquor board to ascertain the exact requirements before attempting to carry out any of the procedures listed below.

The first thing that you will probably have to do is to advertise your intention to apply for a retail liquor license in the Government Gazette two weeks before the first Friday of the month in which you intend to make your application to the appropriate provincial liquor board or office.

In the notice, you will be required to include information such as:

- the full names of the applicant;
- the intended trading name of the business;
- your identity number and those of you partners;
- the registration number of your Company or Close Corporation if applicable, and;
- the full address and location of your proposed business;
- the type of license you intend applying for.

LEGALITIES AND COMPLIANCES

52

In order to carry out this requirement, you will need to obtain FORM 2 from the Government Printers. You can telephone 012 334 4500 and they will fax you a copy. Complete the form, attach a direct payment confirmation and fax it back to them. They will explain the payment procedures to you when you call. The notice will not cost you more than R100.

In some instances (as in the case of Gauteng), you may be required to add to the notice the names and nature of educational institutions, names and distances to similar licensed premises and places of worship within a radius of one kilometre of your proposed business. In addition (as is the requirement of the Gauteng Liquor Board.), you may need to publish a notice of your intention to apply in one or more local newspapers circulating within the area in which your premises is located.

Once the public notification process has been completed, you will then need to obtain the relevant application form(s). For applications under the National Liquor Act 27 of 1989, you will be able to obtain FORM 1 from either the appropriate provincial liquor board, the Government Printers or in many cases from your local library. In the case of KwaZulu-Natal, the form is available on their provincial government website.

Tip – When asking for the form from the Government Printers or your local library, quote “Government Gazette No. 13997 - 1st June 1992” for ease of reference.

Having obtained the necessary form (or forms), you will then need to complete it in full. In some cases the form must be typed and in all cases you will be required to attach additional information such as:

- a layout plan of the premises with dimensions indicating all doors, windows, counters, etc.;
- description of the premises and/or photographs;
- written representations (i.e. motivation for applying for the license), and;
- confirmation of zoning.

In the case of Gauteng, you will be required to attach a number of additional documents, affidavits and certificates. You will also be required to become a member of the Gauteng Liquor Association either directly or through an association such as

LEGALITIES AND COMPLIANCES

53

FEDHASA, the NAA or SATSA.

In some instances, the completed form will need to be signed by a Commissioner of Oaths.

You will then be required to lodge the completed form and the attachments either with your appropriate provincial liquor authority or at your local magistrate's office/court. You may also be required to supply more than one set of the documentation. In most cases, you will be required to submit the form and documentation on the first Friday of the month in which the Government Notice/newspaper notices appeared.

Tip – Do not lodge the application before an official or knowledgeable representative of the liquor authority has been through it and checked the forms and all of the attached documentation. If you submit the application and any of the information provided is insufficient or incorrect or any one of the attachments missing, the application will be returned to you and will further delay what is already a very lengthy process.

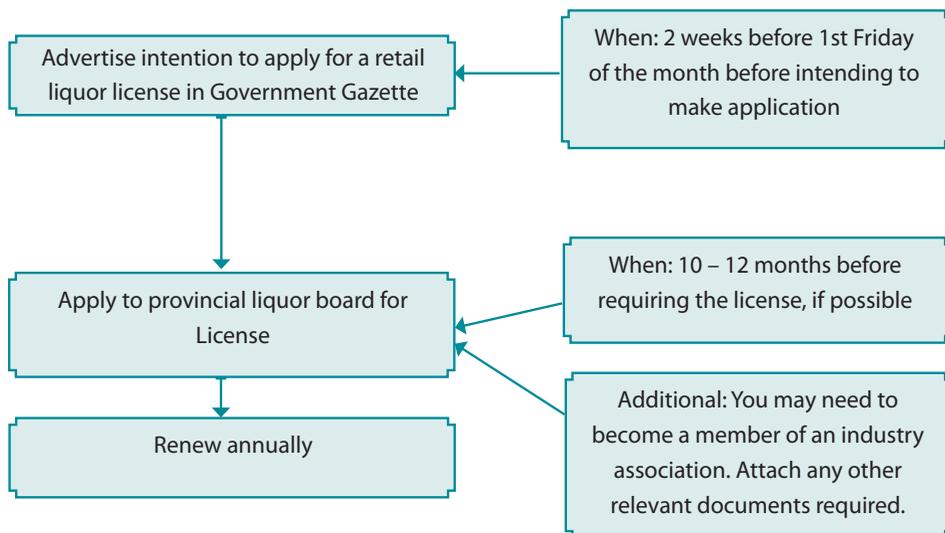
When submitting the form and documentation you will also be required to pay the application fee, which varies depending on the province in which you have made the application.

Tip – Make sure you get a receipt, not only for the fee paid, but also for all of the documentation submitted. This is in case it is claimed that a particular document was not submitted by you. At least you will then be in a position to prove otherwise.

Make sure when applying for a license that you do it timeously and well in advance of the date you hope to commence the sale of liquor to the public. It is suggested that you make application at least ten to twelve months in advance, if possible. Irrespective of what anyone may say, the process, will take many months after the lodging of your completed form and required documentation. Some business owners may consider appointing liquor consultants to handle the application for them. This is allowed and, if you can afford the cost (which could be anywhere between R3,000 and R5,000 per application) is not a bad decision since most of the consultants are familiar with all of the various requirements.

LEGALITIES AND COMPLIANCES

54



Tip – Do not appoint a consultant unless you have received and verified at least three client references (e.g. other businesses) that have successfully used that particular consultant’s services to obtain a liquor license in the recent past. Do not be afraid to negotiate the price. You can usually obtain the names and contact details of liquor consultants from the various hospitality associations such as FEDHASA, the NAA or SATSA.

Additional notes to remember once you have received your license

1. Your liquor license must be renewed annually. Do not, under any circumstances, rely on the provincial authorities to remind you. Licenses will usually run from January through December of each year. If the annual fees are not paid by the end of December, a 50% penalty is levied for those who pay in January and a 100% penalty is levied on those who pay in February. Failure to pay by the end of February will result in your license being cancelled and you having to reapply and go through the whole process all over again.
2. If you intend altering or renovating your business in any way, make sure that you advise the appropriate liquor authority by completing and submitting the required form.

LEGALITIES AND COMPLIANCES

55

3. If you are going to appoint a manager to run your business and be responsible for the day to day sale and control of liquor, then you will need to advise the appropriate authority by completing and submitting the required form.
4. You are required to display your liquor license in a prominent place where it is visible to the public.

14 APPLICATION FOR A BUSINESS TELEVISION LICENSE

Why am I required to register?

Having television licenses is not only the law in terms of Notice 151 of 2004 “Regulations Regarding Television License Fees” issued by the Ministry of Communications, but as you have no doubt heard many times before, “It’s the right thing to do”.

Tip - It is against the law to not pay your television license fee. The Television Licensing Department has implemented several strategies aimed at cutting the piracy rate and substantially increasing the revenue from television licenses. These strategies include employing the services of a countrywide tracking company to crack down on pirate viewers, the implementation of stricter credit control measures and an intensified legal action plan.

Who is required to register?

A business television license is compulsory for every television set used in business or commercial activities or on any premises occupied for business purposes. For example, if you have three television sets on your business premises, each set will need to be licensed.

Which authority will I be dealing with?

You will be dealing with the South African Broadcasting Corporation Television Business Department.

LEGALITIES AND COMPLIANCES

56

Contact details

The SABC Television
Business License Department
Private Bag X 60
Auckland Park
2006.

Fax 011 330 9567 or 011 330 9560
Telephone Business Enquiries 011 330 9702

For information and contact details on the various regional offices, you can either consult your local telephone directory or you can go online to www.sabc.co.za and click on "Contact us" at the top of the home page.

Tip – If you are in any doubt as to what you should do, call the Business Enquiry line above. They are extremely helpful, understand exactly what is required and when, and will answer any question or query you may have.

What will I be required to do?

Tip - Do not go off and attempt to buy your TV sets for the business before making application for a business license. The dealer will require your license number before he/she is lawfully permitted to sell you the sets.

You will first need to obtain a copy of the application form. You can get this from any Post Office and from most of the retail shops that sell television sets. The application form is multi-functional and applies to both domestic as well as a business license applications.

Once you have completed the application form you can make payment at any Post Office. You will be required to pay the current annual fee per set multiplied by the number of sets you have in your establishment.

You can also download, complete, submit and pay the license application online by going to www.tvlic.co.za/portal/site/tvlicense. Click on "Pay Yours" and then click on

LEGALITIES AND COMPLIANCES

57

the method of payment that suits you best.

Tip - If you are a member of a tourism association such as the Federated Hospitality Association of South Africa FEDHASA or the National Accommodation Association NAA, you may well qualify for a discount of up to 25% per set. Check with your association before making application as the process for application will be different to those described above.

If you are a member of an association and if membership of the association qualifies you for a discount, you will need to obtain a letter from that association confirming your membership.

You can then either post your completed application form (together with the letter of confirmation) to SABC Television, Business License Department, Private Bag X 60, Auckland Park, 2006, or better still, fax the application form and membership letter to 011 330 9567 for the attention of the Business Licensing Department. Faxing will be a lot quicker.

On receipt of your application, the Business License Department will calculate the required license fee and forward you an invoice that you will need to pay. Payment can be made at any Post Office and at many of the larger retail stores. On receipt of payment, the Business License Department will allocate it accordingly and send a zero balance statement to you.

You can then take this statement to the dealer and he/she will be able to sell you the required television sets. Fairly complicated, but the effort will be more than compensated by the discount.

Tip - A business must renew its television license by no later than the 7th day of its renewal month in order to avoid accruing penalties, which are loaded on the 8th day of the month.

15 OBTAIN VEHICLE AND TRANSPORT LICENSES

Licenses in this field fall into two categories:

- Vehicle requirements
- Driver requirements

Which authority will I be dealing with?

The local traffic authorities issue vehicle registrations and licenses as well as roadworthy certificates.

Contact details

Unfortunately, the list of Traffic Departments is endless. To obtain the address and contact details of the appropriate department, it is suggested that you either consult your local telephone directory (blue pages) or dial Telkom 1023 and ask for the contact number of your applicable Traffic Service or Testing Station.

15.1 Registering and licensing your vehicle/s for public transport

Why am I required to register?

All vehicles that transport the general or paying public must be safe and driven by appropriately licensed drivers. This is to ensure the safety of the passengers and reduces the risk to the operator of any liability claims.

When a vehicle is purchased, its registration papers should be provided to the buyer with the car. All vehicles must be registered with the Department of Transport through the local/municipal authorities. Once registered, the owner must pay for a license for that vehicle. The license must be renewed annually with the local licensing authority.

LEGALITIES AND COMPLIANCES

59

Who is required to register?

There are a number of legal requirements for transporting passengers for reward. This includes and applies to transportation of tourists on tours, airport transfers and so on. The legal requirements include the following:

- Roadworthy certificates
- Vehicle registration
- Vehicle licensing

Applicability

- Vehicle registration and license: All vehicles
- Roadworthy certificate: Any vehicle that is used for the conveyance of persons for reward must have a roadworthy certificate.

Tip - If you intend crossing borders (Swaziland, Mozambique, Zimbabwe, etc.), then you will need cross-border transport permits. These are available from the Cross-border Road Transport Agency in Pretoria. Also ensure that your insurance covers you, your vehicle and passengers across borders.

What will I be required to do?

Vehicle registration and license

1. Registration papers for the vehicle must be acquired from the licensing authority on purchase of the vehicle.
2. At the same time, the vehicle license must be obtained and the disc must be displayed on the windscreen of the vehicle. The license must be renewed annually.

Roadworthy certificates

1. A vehicle must be taken to a public or private testing station that will examine the vehicle and issue a Roadworthy Certificate.
2. The Roadworthy Certificate must be taken to the licensing authority who will issue a Roadworthy disc that is valid for one year.

3. The Roadworthy disc must be displayed on the windshield of the vehicle along with the normal vehicle license.
4. The vehicle must have an annual inspection and receive a new certificate and disc every year.

Public Operating License

Before you transport passengers for reward (i.e. paying passengers) you must have a Road Transportation Permit (also known as a Public Operating License) for each vehicle.

Application should be made to the Local Transportation Board (which may have different names in different provinces, such as a Provincial Operating License Board) for the permit. You can prepare your application yourself. It is very important to state that you will be transporting tourists and to clearly mark the routes that will be used. If you do not wish to prepare your own application you may use the services of a road transport specialist lawyer. Obviously there will be legal fees involved with this option.

You need to complete the form with:

- your personal or company particulars;
- the type of public transport service;
- the route particulars, and;
- your vehicle particulars.

You also need to sign an affidavit stating that you have not committed a violent or serious offence or been convicted of an offence involving illegal weapons. There is a R25 administration fee.

Once you have been issued with an operating license, you are required to display this license whenever requested by a traffic officer and you must affix a distinguishing mark to your vehicle.

The contact number for the Road Transportation Board office from which application forms may be obtained will be found in the telephone directory in the blue pages.

What will I be required to do?

- Obtain and complete Form 3 “Application for Granting an Operating License for a Non-contracted Service”.
- Complete this form with the details of your business, your routes and vehicle particulars.
- Obtain Form 10 – “Affidavit Regarding Previous Convictions” and attach to Form 3
- Once completed, the forms must be submitted together with R25.00 to the Road Transportation Board. The proposed travel routes are gazetted together with details of the application.
- After the application has been gazetted and the period for objections has lapsed, the applicant will be called to a sitting of the Board where the application and any objections will be heard. This whole process can take approximately 90 working days.
- The Board will subsequently make its decision, which will be communicated to the applicant or his representative. The applicant may attend the hearing in person or may appoint a representative.
- The applicant may be required by the Board to present the vehicle for inspection within 30 days of the notification.
- Proof of passenger liability insurance must be submitted at this stage of inspection.
- Once all this has been done, your operating license will be issued.

Operating licenses are valid for a maximum of five years.

15.2 Licensing the driver for public transport

Who is required to have a license?

All drivers of vehicles must have the relevant driving licenses and drivers of passengers need an additional license:

- Driver’s license relevant to the size of vehicle being driven
- Public Driving Permits
- Driving Licenses

LEGALITIES AND COMPLIANCES

62

The driver of any vehicle must be appropriately licensed. This includes the relevant license for the type and size of vehicle that is being driven. The licenses that you may need as a wheels operator are as follows:

CODE	CLASS OF MOTOR VEHICLE	OLD CODE
B	Motor cars with a total Gross Vehicle Mass (GVM) that is not more than 3 500 kg. Motor car with trailer – GMV 3 500 + 750 kg Mini-busses with a GMV of 3 500kg<	08
C1	Small coaches smaller than 16 000kg GVM	10
C	Large coach with a GVM of 16 000kg	11
EC1	Large coach of over 16 000kg GVM with trailer	14
	This license is for articulated vehicles – e.g. vehicles with trailers.	

The relevant driver's licenses are obtained from the Traffic Department after successful completion of a driver's test.

- Public Driving Permits (PDPs)

Public Driving Permits must be held by the driver of any vehicle used for the conveyance of passengers for reward and for a vehicle conveying 12 or more passengers (including the driver).

What will I be required to do?

The process and requirements may vary from province to province, but this is what you can expect;

The applicant must submit the following when applying for a PDP:

- the necessary fee as determined by legislation;
- acceptable identification;
- two photographs of the applicant;
- an original diving license;
- a medical certificate from an approved medical practitioner (valid for 2 months), and;

- any other PDP already held by the applicant.

The process may include police verification of your fingerprints – the process being that you first go to the licensing authority with your medical certificate to pay an initial fee and then to the police for fingerprinting. There will be a waiting period of 10 days to verify that you have no criminal record. Once this is cleared, return to the licensing authority that will then process the application and ensure that you pass an eye test. Another fee is payable to the licensing authority who will issue a temporary PDP. The PDP card itself will take 4 – 6 weeks and is issued from Pretoria.

Note: A PDP will not be issued to an applicant who has been convicted of, or who has paid an admission of guilt fine for;

- Driving under the influence of alcohol or drugs
- Reckless driving
- An offence of which violence was an element

16 REGISTERING AS A TOURIST GUIDE

A tourist guide is any person who, for monetary or other reward, accompanies people who are travelling through or visiting any place within a country and who furnishes those people with information or comments about the places or objects visited.

Why am I required to register?

If you give a commentary to paying clients (i.e. you guide tourists) you will need to register as a tourist guide with the Department of Environmental Affairs and Tourism (DEAT) through one of the provincial tourism authorities. This is to ensure that tourist guides in South Africa are licensed to provide information to international and domestic visitors.

Training of Tourist Guides

Training of tourist guides is undertaken by institutions that are accredited by the Tourism, Hospitality & Sport Education and Training Authority (THETA), a body set up in 2000 to ensure that effective education and training occurs that meets the current and future needs of the tourism sector.

LEGALITIES AND COMPLIANCES

64

Prospective tourist guides must complete the National Certificate in Tourism: Guiding at levels 2 and/or 4 of the National Qualifications Framework (NQF). For a list of all accredited institutions call THETA on 011 803 6010 or visit their website at www.theta.org.za before enrolling with any training institution.

What will I be required to do?

The tourist guide must first successfully complete training and/or recognition of prior learning (RPL) with an accredited institution. The guide then registers with the Department of Environmental Affairs and Tourism through the provincial tourism authorities.

This is in terms of The Tourism Second Amendment Act No. 70 of 2000 ("The National Act") assented on 13 December 2000 (Gazette No. 21886), which commenced on 1 October 2001 as well as the Regulations of the Act in respect of tourist guides published in the Regulation Gazette No. 22563 on 17 August 2001.

To register as a Tourist Guide

Any person who wishes to be registered as a tourist guide must:

- apply to the Provincial Registrar of their choice;
- be a South African citizen or be in possession of a valid work permit;
- submit a valid first aid certificate from an institution accepted by the Department of Labour (e.g. Red Cross, St John's, the fire brigade, etc.);
- be at least 21 years of age as stipulated in the Act;
- ensure that they are trained by a THETA accredited trainer;
- pay R240.00 upon registration, valid for 2 years;
- have 4 passport sized colour photos, and;
- sign a code of conduct upon registration.

Check with your provincial tourism authority for the exact process but, in general, the process should include the following steps:

- Complete the application form
- Sign the tourist guide Code of Conduct and Ethics
- Submit a certified copy of your valid First Aid Certificate (recognised by the

LEGALITIES AND COMPLIANCES

65

Department of Labour)

- Include four recent, clear, identical, 30X25mm and full-colour photographs of yourself (showing only head and shoulders)
- Pay the registration fee
- Submit a certified copy of your identity document
- Submit a copy of your foreign language proficiency certificate (if applicable)
- Submit a certified THETA Certificate confirming your training and assessment
- Submit a copy of your work permit/passport (if applicable)
- Submit a copy of your public driver's permit if you have one
- Submit copies of your qualifications and curriculum vitae (optional)

After registration, the tourist guide receives an identity card and a badge which must be displayed at all times when conducting guided tours. Tourist guides have to renew their registration every two years.

Who is required to register?

Tourist guides in South Africa fall into three broad categories comprising nature, culture and adventure guides. These categories in turn have three levels, reflecting the complexity and amount of learning required:

- site or specialist
- regional or provincial
- national levels

Tourist guides can only guide within the scope of the categories and levels for which they have qualified. In South Africa it is illegal to conduct guided tours without the requisite qualification.

Which authority will I be dealing with?

Each provincial tourism department has their own Registrar of Tourist Guides. The provincial registrars fall under the national registrar who is based at DEAT in Pretoria. In some provinces the department and the authority are the same organisation, but in other provinces they are different. Your point of contact for registration and information is the Registrar of the Province in which you will be operating.

LEGALITIES AND COMPLIANCES

66

Contact details for Provincial Tourism Departments and Authorities and Tourist Guide Registrars

Eastern Cape Tourism Board

Contact	Ms. Thembeke Mbanga
Email	michael@ectourism.co.za or info@ectourism.co.za or thembekam@ectourism.co.za
Physical address	Cnr Longfellow and Aquarium Road Quigney, East London, 5211
Postal Address	PO Box 18373 Quigney, East London, 5211
Telephone	043 701 9600
Fax	043 701 9641

Free State Department of Tourism, Economic and Environmental Affairs

Contact	Mr. Charles Tshabalala
Email	charlest@dteea.fs.gov.za or tlatsin@dteea.fs.gov.za
Physical address	5th Floor North Wing, Agriculture Building 98 Nelson Mandela Street Bloemfontein, 9301
Postal address	Private Bag X 20801 Bloemfontein, 9300
Telephone	051 400 9597/ 9582 / 4700
Fax	051 400 9590

Free State Department of Tourism

Physical Address	Bojanala Building No 34 Markgraaf Street Bloemfontein
Postal Address	Private Bag X2080 Bloemfontein - 9300
Call Centre	086 110 2185
Fax	051 400 9593
Website	www.freestatetourism.gov.za

LEGALITIES AND COMPLIANCES

67

The Free State has a number of Regional Offices

You can register your establishment online

Gauteng Tourism Authority

Contact	Mr. Mpho Moeti
Email	pat@gauteng.net or leratom@gauteng.net
Physical address	1st Central Place Cnr Jeppe & Henry Nxumalo Streets Newtown, Johannesburg, 2196
Postal Address	PO Box 155, Newtown, 2113
Telephone	011 832 2780
Fax	011 832 2781

Tourism KwaZulu-Natal

Contact	Ms. Uveshnee Ragavan
Email	uveshnee@zulu.org.za
Physical Address	Suite 303 Ground Floor Tourist Junction 160 Pine Street Durban 4001
Postal Address	PO Box 2516, Durban 4000
Telephone	031 366 7543 or 366 7500
Fax	031 304 8858
Email	tkzn@iafrica.com
Website	www.kzn.org.za/kzn

Compulsory registration and you can register online

Mpumalanga Department of Economic Development and Planning

Contact	Mr. Anthony Ngomane (Provincial Registrar)
Email	angomane@mpg.gov.za
Physical address	Building No. 4, 1st Floor 7 Government Boulevard Riverside Government Complex Nelspruit, 1201
Postal address	Private Bag X 11215

LEGALITIES AND COMPLIANCES

68

	Nelspruit, 1200
Telephone	013 766 4181
Fax	013 766 4614

Mpumalanga Tourism and Parks Authority

Physical Address	N4 Halls Gateway Block F Mpumalanga Parks Board Complex Mataffin
Postal Address	PO Box 679 Nelspruit 1200
Telephone number:	013 752 7001
Fax	013 759 5441
Email	mtanlpsa@cis.co.za
Website	www.mpumalanga.com

At the time of writing there was no facility for registering online

Northern Cape Department of Tourism, Environment and Conservation

Contact	Mr. Andries Mokgele (Registrar)
Email	amokgele@met.ncape.gov.za
Physical address	224 Du Toitspan Road Kimberley, 8301
Postal address	Private Bag X 6108, Kimberley, 8300
Telephone	053 807 4831
Fax	053 831 3530
Cell	084 689 7251

Northern Cape Tourism Authority

Physical Address	15 Dalham Road, Kimberley, 8300
Postal Address	Private Bag X5017 Kimberley, 8300
Telephone	053 832 2657
Fax	053 831 2937
Email	tourism@northerncape.org.za
Website	www.northerncape.org.za

LEGALITIES AND COMPLIANCES

69

At the time of writing there was no facility for registering online

Limpopo Department of Economic Development, Tourism and Environment

Contact	Mr. Moses Ngobeni
Email	RikhotsoV@ledet.gov.za or NgobeniM@ledet.gov.za or BreedtS@ledet.gov.za
Physical address	20 Hans van Rensburg Street. Polokwane, 0700
Postal address	P/Bag X9486 Polokwane, 0700
Telephone	015 293 8345/1
Fax	015 293 1085

Limpopo Tourism & Parks Authority

Physical Address	13 Grobblers Street Polokwane, 0700
Postal Address	PO Box 2814 Polokwane 0700
Telephone	015 290 7300 or 295 8232 or 295 8262
Fax	015 291 4140
Email	info@golimpopo.com
Website	www.golimpopo.com

You can register your establishment online

North West Department of Agriculture, Conservation, Environment and Tourism

Contact	Ms. Bella Gumede (Registrar)
Email	bgumede@nwpg.org.za or kmafatshe@nwpg.org.za or gmosomako@nwpg.gov.za
Physical address	1st Floor, Developmental House (NWDC Building) Cnr Provident and University Drive Mmabatho, 2735
Postal address	PO Box 90 Mmabatho, 2735
Telephone	018 387 7801
Fax	018 384 7479

LEGALITIES AND COMPLIANCES

70

North West Parks and Tourism Board

Physical Address	Heritage House Cooke's Lake 30/31 Nelson Mandela Drive Mafikeng
Postal Address	PO Box 4488 Mmabatho, 2735
Telephone	018 397 1500
Call Centre	082 232 7500
Fax	018 397 1660
Email	epholo@nwpg.gov.za
Website	www.tourismnorthwest.co.za

You can register your establishment online

Western Cape Department of Economic Development and Tourism

Contact	Ms. Noxolo Ntenetya (Acting Registrar) Tourist Guide Registration Office
Email	registrar@pgwc.gov.za or lmaqashu@pgwc.gov.za
Physical address	Ground Floor, NBS Waldorf Arcade 80 St. George's Mall Cape Town, 8001
Postal address	PO Box 979 Cape Town, 8000
Telephone	021 483 2960
Fax	021 483 2957

Western Cape Tourism / Cape Town Routes Unlimited

Physical Address	Pinnacle Building C/O Burg & Castle Streets Cape Town
Postal Address	Private Bag X9108 Cape Town. 8000
Telephone	021 426 5639 OR 426 5647
Fax	021 426 5640
Email	info@tourismcapetown.co.za

Website www.capetourism.org

You can register your establishment online

17 REGISTRATION WITH PROVINCIAL TOURISM AUTHORITIES

Why am I required to register?

At the time of writing, only the KwaZulu-Natal Tourism Authority required statutory or compulsory registration for all tourism establishments. The remaining eight provincial tourism authorities offer all tourism establishments in their province the opportunity of listing their business on their official tourism websites but do not require it.

Tourism business owners are advised to contact their provincial tourism authority from time to time in order to ascertain whether or not the provision for compulsory registration has been established.

Even though it is not compulsory to list your tourism business (other than in KwaZulu-Natal), it would be a wise thing to do. Listing your tourism business on the appropriate provincial tourism site is an additional opportunity to market, advertise and promote your business.

Who is required to register?

With regard to the KwaZulu-Natal Tourism Authority (TKZN), regulations were promulgated in 2004 making registration with TKZN mandatory for all tourism establishments and tourism operators. These facilities range from accommodation establishments and conference venues or organisers, to recreation and entertainment activities. Restaurants, sporting facilities, historic and cultural assets are also included.

With regard to all other provincial authorities mentioned above, registration and listing your business is not statutory but is recommended.

Tip – Some of the provincial tourism authorities require that accommodation establishments, restaurant and conference venues be graded by the South African National Grading Council before they will list them on their site.

In most cases, you will be required to pay a small joining fee and in the case of KwaZulu-Natal, you will be required to pay a joining fee as well as an annual renewal fee.

Which authority will I be dealing with?

In every case, you will be dealing with the official provincial tourism authority. In some instances, however, you may be referred to a regional tourism office. All of the contact details for the nine provincial tourism authorities are listed at the end of this document.

What will I be required to do?

The registration or listing process differs from province to province. Some of the authorities have provided a facility for listing online where others will require you to forward all of the information about your establishment by post or fax. See the contact details for each authority and they will indicate whether or not the relevant authority has an online registration or listing facility.

Tip – Make sure you find out the costs (if any) before registering online.

18 INSURING YOURSELF AND YOUR BUSINESS

Why am I required to take out insurance?

It is not a specific legal or statutory requirement in South Africa that you take out insurance to cover your business and or its operation. However, many small businesses end up closing down or going into liquidation as a result of an unfortunate accident, theft, fire, public liability claim or similar unforeseen occurrence. In ninety percent of the cases, the owner or partners could easily have taken out insurance that would have covered the event and allowed the business to

LEGALITIES AND COMPLIANCES

73

continue.

Business insurance is one of the most critical and often most neglected aspects of ensuring your businesses prosperity and sustainability. Many small business owners will have invested their life savings or will have been required to take out significant loans in order to finance the venture. Any single unforeseen event, such as a fire, a robbery or an injury or accident to a customer, can cripple that business overnight.

Whatever you do, do not underestimate the need for insurance.

Tip – You might think that you cannot afford to insure your business but we think that you cannot afford to not insure your business.

Who is required to take out insurance?

Anyone currently running a business or intending to open up a business must, without doubt, take out insurance to protect their investment. Every business is different and will, therefore, have its own unique needs and requirements when it comes to insurance. Remember - your insurance premiums will depend on the type of business you own, the history and liabilities of the business and the range of services you decide to offer.

Invariably, if you make an application for a loan from a financial institution, you will be required to take out some form of personal insurance as collateral. If, for example, you buy a vehicle on hire purchase or buy land or a building on a bond basis, you will be required to take out some form of insurance.

Over and above the loan insurance, you must also consider coverage against accidents involving members of the public and their goods, your employees, yourself and your property. You will need to look into matters such as all risks, buildings and content cover, employer's liability, public liability, vehicles, goods in transit, business interruption and legal expenses, equipment (breakdown and loss of license), machinery, tools and signs and fidelity guarantee.

It is our strong recommendation that you discuss all of the possible insurance options available with an insurance company, broker or agent as soon as you start up your

business or better still, even before you open the doors.

Who will I be dealing with?

Getting the correct business insurance cover to protect your small business venture will take some time and you will need to shop around for the most suitable insurance company or broker. Today, an increasing number of insurance companies, brokers and agents are setting up comprehensive small business insurance packages. There are a number of ways of finding out who is best to deal with.

- Talk to other business owners or associates who have a similar business and find out what company they are using and if they recommend that you contact them.
- If you already have personal insurance and you are happy with the insurance company or broker you are dealing with, contact them and find out if they offer comprehensive small business insurance packages. If they cannot offer the service you are looking for, find out who they would recommend you contact.
- Try to find an insurance company or broker who is familiar with the tourism industry and your type of business.
- Contact the various tourism associations such as ASATA, FEDHASA, the NAA, TBCSA or SATSA and ascertain whether they have an agreement with anyone or can recommend a reputable company or broker.

No matter what you decide or who you decide to insure with make sure that you sign up with a reputable and financially sound insurance company. You are looking for a company that offers the right package at the right price and who can handle and pay out bona fide claims speedily. Waiting for a couple of weeks to find the right insurance company, as opposed to waiting a couple of months for them to pay out on a claim, can make the difference between survival and disaster.

Tip - You are also looking for a company that is open and forthright about the so called “small print” - all those clauses contained in your insurance agreement written in legal jargon that are almost impossible to understand. These are the ones that you are reminded of only after your claim has been rejected.

What should I be looking to insure?

First and foremost, as with most other aspects of your business, you will be looking to get the best and most comprehensive small business insurance package at the lowest possible cost. Comprehensive coverage is obviously very important but at the same time it will need to be balanced with what the business can afford.

There are many different forms of insurance categories that could apply or be beneficial to your business. Examples of the types of insurance that should be discussed with the insurance company or broker are listed below. The list is by no means exhaustive, but it will certainly give you a good idea as to the various areas that you and your insurance representative should be discussing.

Public liability insurance: This will protect your business from financial loss as a result of an injury, death or property damage caused by business operations, employees or products to a client or customer. This is particularly important for wheels operators in case of accidents.

Building and property: Coverage against any form of damage whether it is by fire, vandalism or any other cause.

Contents - Office and Assets: Covers the loss of the contents of your business that may occur as a result of fire, vandalism or any other cause.

Burglary or theft: Not only do you need to protect your own business against theft or robbery, but you would be wise to cover possible guest or client losses especially if you are planning to open an accommodation establishment.

Business disruption or loss of income: If, for some reason beyond your control, you are no longer able to operate for a period of time (e.g. as a result of a fire), then you should consider protecting this potential loss of income.

LEGALITIES AND COMPLIANCES

76

Cash: If you handle a significant amount of cash in your business you should certainly consider coverage.

Debtors: If you have a high level of debtors (people who owe you money) then it would certainly be an idea to cover any potential loss as a result of non payment.

Embezzlement or unlawful appropriation of goods: You can insure yourself against the loss of goods, products and money as a result of unlawful actions by your employees.

Fire: Accommodation establishments and restaurants run a relatively high fire risk and should, therefore, be covered.

Goods in transit: If you are required to transport products and goods, you could look to protect your business against any loss as a result of theft or accidents.

Personal accident and life: By taking out a life or accident insurance policy, you will be protecting your business against the death or injury of key personnel, including yourself. You will need to consider protecting your family or your partners in the business.

Vehicle and passenger liability cover: Not only must you insure your vehicle(s), but if you intend to transport paying or even non paying clients and customers, you should be looking at some form of insurance to protect you and your business against any potential claim as a result of an accident resulting in injury or death.

CONTACT DETAILS

Gauteng

Head Office
Physical Address :
Woodmead Business Park, 145 Western Service Road,
Woodmead, Johannesburg
Postal Address :
P O Box 409, Wendywood, 2144
Telephone : 011 804 5750
Fax : 011 802 8448
Email : info@tep.co.za

KwaZulu-Natal

Regional Representative :
Golden Spot Trading 664 CC
Physical Address :
2nd Floor, Tourist Junction Building,
160 Pine Street, Durban
Postal Address :
P O Box 6573, Zimbali, 4418
Telephone : 031 305 7006
Fax : 031 301 7912
Email : kzn@tep.co.za

Western Cape

Regional Representative :
African Equations CC
Physical Address :
Ground Floor, I.L. Rosenberg House,
80 Jordaan Street, Cape Town, 8001
Postal Address :
P O Box 16649, Vlaeberg, 8018
Telephone : 021 422 0203
Fax : 021 422 0220
Email : wcape@tep.co.za

Mpumalanga

Regional Representative :
Silulu Investment Services (Pty) Ltd
Physical Address : 14 Henshall Street, Nelspruit
Postal Address : P O Box 2270, Nelspruit, 1200
Telephone : 013 752 2300
Fax : 013 752 3496
Email : mpumalanga@tep.co.za

Free State

Regional Representative :
Ceder Investments CC
Physical Address :
78 Victoria Road, Unit 2, Willows, Bloemfontein
Postal Address :
P O Box 32347, Fichardt Park, Bloemfontein, 9317
Telephone : 051 444 0070 or 086 110 5845
Fax : 051 444 0579
Email : freestate@tep.co.za

Northern Cape

Regional Representative :
Ceder Investments CC
Physical Address :
3 Chapel Street, Kimberley
Telephone : 053 832 2799
Fax : 053 832 3006
Email : ncape@tep.co.za

Eastern Cape – Port Elizabeth

Physical Address :
108 Tourism Centre, Cnr Walmer Boulevard,
Mitchell Street, South End
Telephone : 041 582 2150
Fax : 041 582 2234
Email : pe@tep.co.za

Eastern Cape – East London

Physical Address :
59 Western Avenue, Sanlam Park, Vincent
Telephone : 043 727 0480 or 011 832 2014/5
Fax : 043 727 1002 or 011 832 2030
Email : eastlondon@tep.co.za

Limpopo

Physical Address :
Standard Bank Building, 49 Landdros Mare,
Polokwane
Telephone : 015 295 7287 or 011 832 2014/5
Fax : 015 295 7294 011 832 2030
Email : limpopo@tep.co.za

North West

Physical Address :
2 Joule Street, Industrial Site, Mafikeng, 2745
Postal Address : P O Box 130, Mafikeng, 2745
Telephone : 018 381 1660 or 011 832 2014/5
Fax : 018 381 1667 or 011 832 2030
Email : northwest@tep.co.za