

**Disaster Management Act 57 of 2002 (DMA)**

Regulations issued to S. 27(2) of the Act as applied to COVID-19 Pandemic in RSA  
*Specific focus on Restaurants, pubs and establishments selling liquor*

By **WORKLAW**. You can contact us at [workbizlawyer.com](http://workbizlawyer.com)

WORDS		MEANING OF WORDS	
<b>adequate space</b>		Means not more than one <i>person per square meter of floor space</i> ;	
<b>gathering</b>		Means any assembly, concourse or procession of more than 100 persons wholly or partially in the open air or in a building or premises.	
<b>liquor</b>		Means: (a) Any liquor product, as defined in section 1 of the Liquor Products Act 1979 (Act No. 60 of 1989). (b) Beer or traditional African beer; or (c) Any other substance	
<i>Off-consumption premises</i>		This term is used in S. 8 (1) & (4) of the Regulations and refers to premises where liquor is sold, <i>but where the consumption of the liquor takes place off the premises.</i> (e.g. bottle store)	
<i>On-consumption premises</i>		This term is used in S. 8 (5) of the Regulations and refers to premises where liquor is sold <i>and where the consumption of the liquor takes place on the premises.</i> (e.g. restaurant, a pub or a club)	
<i>Premises selling liquor which provides accommodation</i>		This term is used in S. 8 (2) of the Regulations and refers to premises where liquor is sold and which provides accommodation. (e.g. hotels)	
RELEVANT SECTIONS IN THE REULATIONS			
<b>S. 3 (3)</b>		The assembly of more than 50 people at premises where <b>liquor</b> is <u>sold</u> <u>and</u> <u>consumed</u> is prohibited.	
<b>S. 8 (1)</b>		All <b>on-consumption premises</b> selling <b>liquor</b> , including taverns, restaurants and clubs <u>must</u> <u>be closed</u> with immediate effect, <u>or</u> <u>must</u> <u>accommodate no more than 50 persons at any time</u> : Provided that <b>adequate space</b> is available and that all directions in respect of hygienic conditions and limitations of exposure to persons with COVID-19, are adhered to.	
<b>S. 8 (2)</b>		<i>All premises selling liquor</i> <b>which provide accommodation</b> must implement measures to stop the spread of COVID-19: Provided that <b>adequate space</b> is available and that all directions in respect of hygienic conditions and limitation of exposure to persons with COVID-19 are adhered to.	
<b>S. 8 (3)</b>		No special events <b>liquor</b> licenses may be considered for approval during the durations of the national state of disaster.	
<b>S. 8 (4)</b>		All <b>on-consumption premises</b> selling <b>liquor</b> , referred to in sub-regulation (1) <u>must</u> <u>be closed</u> – (i) Between 18:00 and 09:00 the next morning on weekdays and Saturdays; <u>and</u>	

	(ii) From 13:00 on Sundays and public holidays.
<b>S. 8 (5)</b>	All <b>off-consumption premises</b> selling liquor, <b>must</b> be closed – (i) Between 18:00 and 09:00 the next morning on weekdays and Saturdays; <b>and</b> (ii) From 13:00 on Sundays and public holidays.

**What does this mean for a restaurant, pub or club (“an establishment”)?**

**Rule:** To interpret these regulations correctly, we must read the definitions, together with SS. 3 (3), 8 (1) and 8 (4) of the Regulations above.

**Application / Interpretation:**

- [1] When an establishment sells liquor, there may not be more than 50 people at a time. See S. 3 (3).
- [2] What is the implication of the 18:00 restriction? When there are more than 50 people (patrons) at 18:00 an establishment sells liquor for consumption on the premises must either close until the next morning 09:00 when it can open again **or** (continue to operate and) accommodate no more than 50 persons at any time **and** provided that there is adequate space and all directions are followed (See S. 8 (1)).
- [3] Can an establishment then continue to sell liquor to the 50 patrons in the establishment? When you read S. 8 (4) the answer appears to be “No”. Thus the 50 patrons who remain in the establishment could consume food and non-alcoholic refreshments.
- [4] So what can legally you do after 18:00? An establishment which trades between 18:00 and 09:00 the next morning must:
  - a. **Stop** selling or serving liquor after 18:00.
  - b. **Can trade** and sell only food and non-alcoholic refreshments.
  - c. **Must** only allow 50 patrons or less into the establishment during this period.
  - d. **Can sell takeaways** without any restriction. (Obviously this excludes alcoholic beverages).
  - e. **Employers** can also decide to **implement short time** for the duration of the state of National disaster due to COVID-19. Short time is a temporary reduction in the number of hours that an employer requires and employee to work. The benefit for the employer is that the employer would then pay the employee only for the hours that the employee is required to work.

*We trust that you would find these guidelines useful.*

Sincerely

**The Worklaw Team**