



**NORTH WEST
NOORDWES**

EXTRAORDINARY • BUITENGEWOON

**PROVINCIAL GAZETTE
PROVINSIALE KOERANT**

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21 JUNE 2017
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No. 7775

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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 114 OF 2017

DEPARTMENT OF ECONOMIC AND ENTERPRISE DEVELOPMENT

NOTICE IN TERMS OF SECTION 96(1) OF THE NORTH WEST LIQUOR LICENSING ACT, 2016 (ACT NO. 6 OF 2016): PUBLICATION OF, AND DETERMINATION OF THE DATE OF THE COMING INTO OPERATION OF THE NORTH WEST LIQUOR LICENSING ACT, 2016 (ACT NO. 6 OF 2016)

By virtue of the powers vested in me in terms section 96(1) of the North West Liquor Licensing Act, 2016, (Act No. 6 of 2016), I Wendy Joyce Nelson, in my capacity as Member of the Executive Council for Finance, Economic and Enterprise Development, hereby publish and determine that the said Act shall come into operation on the date of the publication of the Regulations made in terms of section 91 of the said Act

Given under my hand at Mahikeng this 06 day of June, Two thousand and Seventeen.


.....

Hon. **WJ NELSON (MPL)**

MEC responsible for liquor licensing in the North West Province

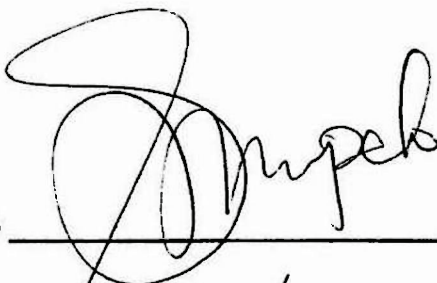
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NORTH WEST PROVINCE

**NORTH WEST
LIQUOR LICENSING ACT NO. 6 OF
2016**

[ASSENTED TO _____]

[DATE _____]

A handwritten signature in black ink, appearing to read 'Mphahlele', is written over a horizontal line that serves as the assent line.

12/12/2016

(The English text is the official text of the Act)

ACT

To provide for the regulation, control and licensing of the retail sale and micro-manufacture of liquor in the North West Province; to provide for the establishment of the North West Liquor Authority; to provide for the designation of inspectors and their powers and duties; and to provide for matters connected therewith.

BE IT ENACTED by the Legislature of the North West Province, as follows:–

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CHAPTER 1
INTRODUCTION**Definitions**

1. In this Act, unless the context indicates otherwise –

"accommodation" means any premises where accommodation and meals are provided and includes an hotel, a motel, an inn, a bed and breakfast establishment, a caravan and camping park, a farmhouse, a guest-house, a lodge, a boat and a house boat;

"amnesty notice" means a temporary amnesty notice issued by the Board of the Liquor Authority for any category of licence contemplated in section 31, and which is subject to the amnesty provisions contained in section 94;

"beer" includes –

- (a) ale, cider and stout; and
- (b) any other fermented drink, other than traditional African beer –
 - (i) that is manufactured as, or sold under the name of, beer, ale, cider or stout, if it contains more than one percent by volume of alcohol; or
 - (ii) that is declared to be beer under the Liquor Act, 2003 (Act No. 59 of 2003);

"Board" means the Board of Directors of the North West Liquor Authority, primarily responsible for the adjudication and approval of licence and permit applications and is not the Accounting Authority of the North West Liquor Authority;

"Chief Executive Officer" means the Chief Executive Officer and Accounting Authority of the North West Liquor Authority appointed in terms of section 19(1);

"close corporation" means a corporation as defined in section 1(1) of the Close Corporations Act, 1984 (Act No. 69 of 1984);

"club" means an association or organisation consisting of members dedicated to a particular activity or pursuing similar interests, which is subject to a set of rules or a constitution to which all members subscribe;

"company" means a company as defined in the Companies Act, 2008 (Act No. 71 of 2008);

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"controlling interest" means any interest acquired or held, enabling the holder thereof to exercise, directly or indirectly, any control, as determined in accordance with section 12(2) of the Competition Act, 1998 (Act No. 89 of 1998), over the activities of the business or undertaking;

"convenience store" means a store located on the site of a service station selling petrol, diesel or other petroleum products to the public, whose main business is the sale of a limited number and variety of fast moving consumer goods;

"co-operative" means a co-operative as defined in the Co-operatives Act, 1981 (Act No. 91 of 1981);

"days" for the purposes of calculation of time periods in this Act, means business days and excludes weekends and public holidays;

"Department" means the department in the Provincial Government of North West responsible for liquor licensing;

"distribute" means to offer liquor or methylated spirit for sale, or to sell

liquor, to a licensed person;

"distributor" means a person licensed as such in terms of the Liquor Act, 2003 (Act No. 59 of 2003);

"family member" includes –

- (a) a husband or a wife, any partner in a marriage concluded under any tradition or under any system of religious practice or any partner in a relationship where the parties live together in a manner resembling a marital partnership, a marriage concluded under any tradition or under any system of religious practice;
- (b) any child born out of any one of the marriages or unions referred to in paragraph (a) or any child born to one of the partners referred to in the said paragraph; or
- (c) the parents of a person referred to in paragraph (a) and the parents of such person's husband, wife or partner referred to in the said paragraph (a);

"financial interest" means the ownership of shares in a company, a member's interest in a close corporation, an interest in a partnership and, in respect of a business or undertaking, any interest which enables the holder thereof to share in the profits and income of such business or undertaking;

"gaming premises" means any premises on which gambling, as defined in the North West Gambling Act, 1996 (Act No. 10 of 1996), or its successor, takes place under the authority of a licence issued in terms of that Act, or its successor;

"Gazette" means the official *Provincial Gazette* of the Province of North West;

"grocer" means a business retailing mainly in groceries and foodstuffs, but excludes a convenience store;

"Head of Department" means the head of the department in the Provincial Government of North West responsible for liquor licensing;

"intoxicated" means the condition a person is in when his or her mental and physical faculties are so impaired by liquor that he or she is likely to cause injury to himself or herself or to another person or be a danger, nuisance or disturbance to others;

"licensed person" means a person to whom a licence has been issued or who is regarded as licensed in terms of this Act, or a person licensed in terms of the Liquor Act, 2003 (Act No. 59 of 2003);

"licensed premises" means the premises on which liquor may be micro-manufactured or sold under a licence or permit in terms of this Act;

"liquor" means –

- (a) a liquor product, as defined in section 1 of the Liquor Products Act, 1989 (Act No. 60 of 1989);
- (b) beer or traditional African beer; or
- (c) any other substance or drink declared to be liquor under the Liquor Act, 2003 (Act No. 59 of 2003), but does not include methylated spirits;

"Liquor Act" means the Liquor Act, 2003 (Act No. 59 of 2003);

"Liquor Authority" means the North West Liquor Authority established in terms of section 5;

"Liquor Board" means the Board established in terms of section 5 of the Liquor Act, 1989 (Act No. 27 of 1989);

"liquor store" means an outlet licensed to sell liquor for consumption off the premises;

"Member of the Executive Council for Finance" means the member of the Executive Council of the Province of North West responsible for finance;

"Member of the Executive Council for Health" means the Member of the Executive Council of the Province of North West responsible for health;

"methylated spirits" means –

- (a) a spirit denatured in accordance with any law on the denaturation or methylation of spirits; or
- (b) any other denatured spirit, including –
 - (i) a medicated spirit; or
 - (ii) a denatured spirit declared to be methylated spirits in terms of the Liquor Act, 2003 (Act No. 59 of 2003);

"micro-manufacture" means to produce liquor at or below the prescribed threshold volume determined in terms of section 4(10) of the Liquor Act, 2003 (Act No. 59 of 2003);

"micro-manufacturer" means a person registered as such under this Act to micro-manufacture liquor at or below the threshold volume prescribed in terms of the Liquor Act, 2003 (Act No. 59 of 2003) ;

"minor" means a person who has not attained the age of 18 years;

"municipality" means a municipality contemplated in section 155 of the Constitution of the Republic of South Africa, 1996, and established by and under sections 11 and 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), read with sections 3, 4 and 5 of the North West Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000), and a **"district municipality"** has a corresponding meaning;

"nightclub" means licensed liquor premises that are open at night and where dancing and music is usually provided;

"permit" means a special events permit referred to in section 31(1)(c);

"person" means a natural or a juristic person, a group of such persons or a

corporate body, unless the context indicates a contrary meaning;

"premises" means any land, building or structure, or part thereof;

"prescribed" means prescribed by regulation, and **"prescribe"** has a corresponding meaning;

"Province" means the province of North West established in terms of section 103 of the Constitution;

"Provincial Legislature" means the Legislature of the Province of North West;

"pub" means any commercially zoned licensed premises where liquor is sold for consumption on the premises and where meals prepared on the premises may be provided incidentally thereto;

"Public Finance Management Act" means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"public office bearer" means –

- (a) a member of the National Assembly, the National Council of Provinces or the Cabinet;
- (b) a member of a provincial legislature or of the Executive Council of a province;
- (c) a municipal councillor;
- (d) a diplomatic representative of the Republic who is not a member of the public service;
- (e) a member of a house of traditional leaders; or
- (f) a national or provincial office bearer of a political party, organisation, body, alliance or movement registered in terms of section 15 or 15A of the Electoral Commission Act, 1996 (Act No. 51 of 1996);

"public servant" means a public servant as defined in section 1 of the Public Service Act, 1994 (Proclamation 103 of 1994), and includes a municipal

employee;

"regulation" or **"regulations"** means a regulation or regulations made in terms of this Act;

"responsible Member" means the Member of the Executive Council of the Province of North West responsible for liquor licensing;

"restaurant" means any commercially zoned licensed premises where meals prepared on the premises are provided and where the sale of liquor for consumption on the premises is incidental thereto;

"retail sale" means the sale of liquor for the purposes of consumption and includes exchange or keep, offer, display, deliver, supply or dispose of, for retail sale, or authorise, direct or allow a retail sale, and **"sale"** and **"sell"** have corresponding meanings;

"Revenue Fund" means the Provincial Revenue Fund established in terms of section 226 of the Constitution;

"shebeen" means an unlicensed drinking establishment;

"special event" means an event organised at a specified place for a specified duration;

"sports ground" means a place where sports meetings, games or recreational activities are held: Provided that such place is not situated within the premises of any institution of learning or religion;

"supply" with regard to any retail sale of liquor, means to place a person in possession or control of that liquor;

"tavern" means any residentially zoned licensed liquor premises where liquor is sold for consumption on the premises, and where food, other than food prepared

on the premises, may be provided incidentally thereto;

“theatre” means any commercially zoned licensed premises where dramatic performances, plays, concerts, shows or films are regularly shown or presented to the public;

“this Act” includes the regulations;

“traditional African beer” means a fermented liquid –

(a) made by –

(i) the fermentation of malt, unmalted grain or meal of the cereals sorghum, maize, finger millet or pearl millet, with no more than five per cent sugar by weight relative to the combined weight of all the malt, grain or cereal ingredients; or

(ii) combining traditional African beer powder with water;

(b) with no addition of ethyl alcohol;

(c) with an alcohol content not exceeding 3,5 per cent by volume;

(d) in a state of fermentation, or of which the fermentation has not been arrested; and

(e) not containing or flavoured with hops or any product derived from hops;

“traditional African beer powder” means a dry product –

(a) comprising –

(i) not more than three parts by mass of milled sorghum or maize malt; and

(ii) not less than seven parts by mass of milled precooked maize or sorghum unmalted grain or meal; and

(b) which –

(i) does not contain any sugar derived from any source;

(ii) does not contain, and is not flavoured with, hops or products derived from hops; and

(iii) may contain active dry yeast added as a processing aid; and

"unlicensed retail sellers" includes **"shebeens"**;

"wine" means wine as defined in section 1 of the Liquor Products Act, 1989 (Act No. 60 of 1989).

Objects of Act

2.(1) The objects of this Act are –

- (a) to provide for the regulation of the micro-manufacturing and the retail sale of liquor;
- (b) to provide for mechanisms aimed at reducing the socio-economic and other effects of alcohol abuse;
- (c) to provide for public participation in the consideration of applications for registration; and
- (d) to promote the development of a responsible and sustainable retail and micro-manufacturing liquor industry in a manner that facilitates –
 - (i) the entry of new participants into the industry;
 - (ii) diversity of ownership in the industry; and
 - (iii) an ethos of social responsibility in the industry.

(2) In achieving the objects contemplated in subsection (1) the Liquor Authority must endeavour to progressively increase its own revenue generation and collection.

Application of Act

3. This Act does not apply to –

- (a) an officer as defined in section 1(1) of the Customs and Excise Act, 1964 (Act No. 91 of 1964), in the performance of his or her functions;
- (b) a sheriff or any other officer of a court acting in terms of an order of a court;
- (c) a judge or magistrate, acting in the performance of his or her functions;
- (d) a person, with regard to the sale of any spiritous or distilled perfumery or medicated spirit, which perfumery or spirit is not methylated spirits;
- (e) the manufacturer of sweets containing not more than two per cent by mass of alcohol, with regard to the sale of those sweets to a licensed person;

- (f) the commander of an aircraft of an air service licensed in terms of the Air Services Licensing Act, 1990 (Act No. 115 of 1990), to provide a scheduled air transport service, with regard to the sale of liquor to a passenger on authority on that aircraft while on a flight of not less than 100 kilometres from one airport in the Republic to another; and
- (g) an administrator of a deceased or insolvent estate, in the administration of that estate

Functions of responsible Member

4.(1) The responsible Member must –

- (a) within 12 months after the coming into operation of this Act, –
 - (i) develop provincial policy and norms and standards pertaining to the retail liquor industry and the micro-manufacturing of liquor;
 - (ii) establish and set guidelines for the conduct of business in the Liquor Authority and liquor licensing officers;
- (b) establish a social responsibility programme in respect of alcohol consumption;
- (c) annually provide the National Minister responsible for liquor matters, and the Executive Council, with information contained in the Provincial Liquor Register as contemplated;
- (d) advise the Minister or the Premier, or furnish a report or recommendation to the Minister or the Premier, on any matter referred to him or her by the Minister or the Premier for consideration and arising from the application of this Act; and
- (e) perform such other functions as may be assigned to him or her in terms of this Act.

(2) In addition to the functions contemplated in subsection (1), the responsible Member may, in consultation with the National Minister responsible for liquor matters, and subject to section 5 of the National Liquor Act, 2003, prescribe controlling or regulating measures in respect of methylated spirits.

CHAPTER 2 NORTH WEST LIQUOR AUTHORITY

Establishment of Liquor Authority

5.(1) The North West Liquor Authority is hereby established.

(2) The Liquor Authority is a provincial government component contemplated in section 7A of the Public Service Act, 1994 (Proclamation 103 of 1994, as amended).

(3) The Liquor Authority is subject to the Public Finance Management Act.

(4) The Chief Executive Officer is the accounting authority of the Liquor Authority, as contemplated in section 49(2)(b) of the Public Finance Management Act.

Objects of Liquor Authority

6. The objects of the Liquor Authority are to –

- (a) consider and approve liquor licence applications in the Province;
- (b) issue licences in terms of Chapter 6 of this Act;
- (c) enhance accessibility of liquor licences in the Province;
- (d) ensure a uniform, fair, equitable and transparent process in the issuing of liquor licences; and
- (e) work with the responsible Member, the Department, municipalities and the liquor industry in the Province in order to implement and promote national and provincial liquor policies and norms and standards.

Powers, duties and functions of Liquor Authority

7.(1) The Liquor Authority must –

- (a) through its Board, consider applications for liquor licensing in terms of Chapter 6 of this Act;
- (b) through its Board, grant, refuse, renew, amend, and subject to the relevant provisions of the Promotion of Administrative Justice Act, 2000 (Act No.3 of 2000) revoke a liquor licence ;
- (c) advise the responsible Member on any matter referred to the Liquor Authority by the responsible Member;
- (d) through its Board, investigate, furnish a report and make recommendations to

- the responsible Member, regarding any matter relating directly or indirectly to the liquor industry in the Province;
- (e) through its Board, advise the responsible Member on the development of a social responsibility programme in respect of alcohol consumption and the implementation thereof;
 - (f) assist the responsible Member in formulating policy and in establishing norms and standards concerning any matters in relation to the liquor industry in the Province;
 - (g) participate in programmes aimed at promoting the development of a responsible and sustainable retail and micro-manufacturing liquor industry in the Province;
 - (h) initiate and participate in the development programmes aimed at reducing the socio-economic and other effects of alcohol abuse;
 - (i) assist and advise the responsible Member on the development of a programme in order to pursue the objects of the Act outlined in section 2;
 - (j) within the framework of national and provincial liquor policies, assist and advise the responsible Member with regard to advising and guiding –
 - (i) the business unit within the Department responsible for small business development;
 - (ii) stakeholders in the liquor industry, consumers and organisations or institutions whose activities or aims have an impact on and relate to the liquor industry in the Province;
 - (k) establish and maintain a Provincial liquor register of all persons and entities licensed in terms of this Act, a description of the category of license in each instance, the validity period of such license and a description of the of the licensed premises concerned in each instance; and
 - (l) perform such other functions as may be assigned to it in terms of this Act.

(2) The Liquor Authority may, after the consideration by its Board of any other matter contemplated in this Act –

- (a) suspend for an indefinite time or for such period as it may determine or withdraw from such date as it may determine, a licence which is the subject of a report, complaint or objection concerned, or any right or privilege which is attached thereto;

- (b) declare the licence concerned to be subject to such conditions or further conditions as it may in its discretion impose;
- (c) rescind the suspension of the licence concerned or of any right or privilege which is attached thereto, with immediate effect or from such date as it may determine, subject to such conditions as it may in its discretion impose; or

(2) The Liquor Authority may, after the consideration by it of any other matter contemplated in this Act –

- (a) acquire, hold, hire, let and alienate intellectual, movable and immovable property;
- (b) open and maintain bank accounts;
- (c) appoint, suspend, discipline, dismiss officers and staff and do all things incidental thereto;
- (d) conclude and perform contracts;
- (e) participate and conclude quasi-judicial and administrative proceedings;
- (f) receive, expand and generally administer funds;
- (g) make and enforce rules for the conduct of its proceedings;
- (h) collect and administer levies and fees imposed by or under this Act;
- (i) Conduct or cause to be conducted hearings, investigations and enquiries with regard to any matter falling within the scope of this Act;
- (j) enter into agreements with or obtain any assistance from any department or organ of State including South African Police Services; and
- (k) take any such other steps as it may deem fit,

subject to written approval by the responsible Member.

Composition of Board of Liquor Authority

8.(1) The Board of Liquor Authority consists of not less than three and not more than five members appointed by the responsible Member.

(2) The members contemplated in subsection (1) must include –

- (a) two persons who are admitted as Attorneys or Advocates with at least five years experience in the legal profession or the administration of justice;
- (b) one person who has knowledge and experience in the field of welfare, socio-

economic development or social services;

(c) one person nominated by the municipality who has knowledge and experience in town planning; and

(d) one member of the South African Police Service of the rank of Superintendent or above, nominated by the Provincial Commissioner of Police.

(3) In appointing members to the Board of the Liquor Authority, the responsible Member must ensure that historic imbalances are addressed.

(4) The responsible Member must designate –

(a) one of the members of the Board of the Liquor Authority as the Chairperson of the Liquor Authority;

(b) one of the members of the Board of the Liquor Authority as the Deputy Chairperson of the Liquor Authority; and

(c) in the absence of the Board of the Chairperson and the Deputy Chairperson, one of the members of the Liquor Authority as the alternate Chairperson of the Liquor Authority.

(5) The members must be fit and proper persons, South African citizens, broadly representative of the population of the Province.

(6) The responsible Member must, publish an invitation calling for nomination for appointment to the Board of the Liquor Authority in two newspapers circulating widely in the Province.

(7) The responsible Member must cause the names of the persons appointed to the Board of the Liquor Authority to be published in the *Gazette* and in at least two newspapers circulating in the Province, immediately after such persons have been notified, in writing, of their appointment to the Board of the Liquor Authority.

(8) The responsible Member must, within two months after the appointment of members of the Board of the Liquor Authority inform the Executive Council and the Portfolio Committee of the names of the appointed members including the term of their appointment.

(8 This section applies, with the necessary changes, to the filling of a vacancy on the Board of the Liquor Authority.

Disqualification from being appointed to Board of Liquor Authority

9. A person is disqualified from being appointed to the Board of the Liquor Authority or from remaining on the Board of the Liquor Authority, by reason that he or she –

- (a) is or becomes an unrehabilitated insolvent;
- (b) is or has been declared by a competent court to be of unsound mind;
- (c) is directly or indirectly interested in any contract with the Liquor Authority and fails to declare his or her interest and the nature thereof in the manner required by this Act;
- (d) is a person under curatorship;
- (e) has at any time been removed from an office of trust on account of misconduct involving theft or fraud;
- (f) has been convicted and sentenced to a term of imprisonment without the option of a fine, except that the responsible Member may, upon such nominee disclosing full details of the offence in an affidavit, condone a conviction in a manner that is consistent with section 106(1)(e) of the Constitution: Provided that a disqualification in terms of this subsection ends five years after the sentence has been completed;
- (g) fails to disclose an interest in accordance with section 11 or attended or participated in the proceedings of the Liquor Authority while having an interest contemplated in the said section;
- (h) is a public office bearer; or
- (i) is not a citizen of the Republic and not resident in the Province.

Declaration of financial or other interests of members of Board of Liquor Authority

10.(1) A person who has been nominated to serve on the Board of the Liquor Authority in terms of section 8 must, within 10 days of being nominated, submit a written declaration to the responsible Member of all direct or indirect interests in any company, close corporation and of any other business interests.

(2) Any failure by a nominee to disclose financial and other interests in terms of subsection (1) disqualifies such nominee in terms of section 9 from being appointment to the Board of the Liquor Authority.

(3) Every member of the Board of the Liquor Authority must, upon assuming office and at the beginning of every financial year of the Liquor Authority, submit a written declaration of his or her direct or indirect interest in any company, close corporation or other business interests.

(4) Where a member of the Board of the Liquor Authority acquires interest in any company, close corporation or other business interests, at anytime during his or her tenure as a member of the Board of the Liquor Authority he or she must, within 10 days of the date of the acquisition of such an interest, submit a written declaration to the responsible Member of such an interest.

(5) Any failure on the part of the member to disclose his or her interests as contemplated in subsections (3) and (4) results in the termination of appointment of such member in terms of section 13(2).

(6) The responsible Member must keep an updated register of the interests of members of the Board of the Liquor Authority disclosed in terms of this section.

Failure to declare financial or other interests by member of Board of Liquor Authority

11.(1) A member of the Board of the Liquor Authority who fails to make a declaration envisaged in section 10 may, subject to subsection (2), be disqualified from remaining on the Liquor Authority.

(2) The responsible Member, on becoming aware that a member of the Board of the Liquor Authority has failed to comply with the provisions of section 10, must investigate the matter and consider appropriate disciplinary action.

Term of office and reappointment of member of Board of Liquor Authority

12.(1) A member is appointed to serve on the Board of the Liquor Authority for a period of three years or such lesser period as the responsible Member may determine.

(2) A member is eligible for re-appointment upon the expiry of his or her term of office for one additional term.

Vacancies, removal and resignation from office of members of Board of Liquor Authority

13.(1) A member of the Board of the Liquor Authority must vacate office if he or she becomes subject to a disqualification contemplated in section 9.

(2) The responsible Member may, after having afforded a member the opportunity to state his or her case, at any time terminate the term of office of such member if, in his or her opinion, there are sound, cogent and justifiable reasons for doing so.

(3) A member must vacate office if he or she is absent, without a leave of absence having first been granted by the Board of the Liquor Authority, from two consecutive meetings of the Liquor Authority for which reasonable notice was given to that member personally or by post.

(4) A member may resign from office by giving not less than 30 days written notice to the responsible Member: Provided that the responsible Member may waive the resignation notice.

(5) Whenever a vacancy occurs on the Board of the Liquor Authority, the responsible Member must, subject to section 8, appoint a person to fill such vacancy for the unexpired portion of the period of office of the member in whose place such person is appointed.

(6) The responsible Member may, subject to subsection (2), terminate the appointment of all or some of the members of the Board of the Liquor Authority, in consultation with the Executive Council -

- (a) on account of his or improper conduct; or
- (b) on account of unfitness for the functions of his or her office; or
- (c) on the ground of permanent infirmity; or

(d) on account of disqualification subject to section 9

(7) In the event that the responsible Member exercises his or her powers in terms of subsection (6), he or she may, notwithstanding the procedure for the appointment of the members of the Board of the Liquor Authority set out in section 8, but subject to subsections (2) and (3) of section 8, appoint persons to serve as members of the Board of the Liquor Authority on an interim basis: Provided that –

- (a) the persons appointed to replace the members whose appointment has been terminated in terms subsection (6), may not remain on the Liquor Authority for a period of more than 90 days from the date of their appointment; and
- (b) the responsible Member, must, subject to section 8, appoint the permanent members of the Board of the Liquor Authority within 90 days of the appointment contemplated in paragraph (a) of this subsection.

Temporary suspension of member of Board of Liquor Authority

14.(1) The responsible Member may, after applying the relevant rules of natural justice, suspend a member on full remuneration if –

- (a) the member is alleged to have committed a serious offence; and
- (b) the responsible Member reasonably believes that the presence of such member at the Board of the Liquor Authority might jeopardise any investigation and the enquiry into the alleged misconduct, or endanger the well-being or safety of any person or state property: Provided that a suspension of this kind is a precautionary measure, which does not constitute a finding.

(2) If a member is suspended as a precautionary measure contemplated in subsection (1), the responsible Member must hold the enquiry within 60 days from the effective date of such suspension.

Meetings and procedures at meetings of Board of Liquor Authority

15.(1) The responsible Member or his or her authorised delegate or representative must convene the first meeting of the Board of the Liquor Authority.

(2) The Board of the Liquor Authority must thereafter meet as often as necessary, at such places and times as the Liquor Authority may determine.

- (3) Every member of the Board of the Liquor Authority must be notified of each meeting in writing, at least 14 days prior to such meeting, and such notification must contain an agenda for the proposed meeting.
- (4) If both the Chairperson and the Deputy Chairperson are absent from a meeting of the Board of the Liquor Authority, the meeting may not proceed.
- (5) The Chairperson may call a special meeting of the Board of the Liquor Authority and he or she must do so at the written request of two-thirds of the members of the Liquor Authority.
- (6) A notice calling a special meeting must be in writing and it must set out the date, time and place of the meeting and the business to be transacted thereat.
- (7) A *quorum* for a meeting of the Board of the Liquor Authority is a simple majority of its members.
- (8) Any decision of the Board of the Liquor Authority must be taken by resolution of the majority of the members present at any meeting of the Board of the Liquor Authority and, in the event of an equality of votes on any matter, the member presiding at the meeting in question has a casting vote in addition to his or her deliberative vote as a member of the Board of the Liquor Authority.
- (9) The proceedings of all meetings of the Board of the Liquor Authority must be duly recorded and minuted.
- (10)(a) The minutes of the previous meeting must be read and adopted at the commencement of each meeting.
- (b) The minutes may be regarded as read if copies thereof were furnished to the members of the Board of the Liquor Authority prior to the meeting.
- (c) The Chairperson may only sign the minutes once any objections have been considered and any corrections have been effected.
- (11) The Chairperson must decide on questions of order or procedure: Provided that if any member objects to any such decision, the question must be put to the vote and the decision of the majority of the members is final and binding on the Liquor Authority.

(12) A member of the Board of the Liquor Authority may not vote or in any manner participate in the proceedings at any meeting of the Liquor Authority, nor be present at the venue where such a meeting is held if, in relation to any matter before the Board of the Liquor Authority, such a member has any interest which, reasonably considered, may preclude him or her from performing his or her functions as a member of the Liquor Authority in a fair, unbiased and proper manner.

(13)(a) Subject to paragraph (b), all meetings of the Board of the Liquor Authority are open to the public.

(b) The deliberations and voting by the Board of the Liquor Authority on any matter must take place to the exclusion of the public.

Recusal of member from meetings and proceedings of Board of Liquor Authority

16.(1) A member of the Board of the Liquor Authority must recuse himself or herself from a matter being investigated, considered or voted upon by the the Board of Liquor Authority if one or more of the following occur –

(a) if he or she has a direct or indirect interest in the matter; or

(b) if there is a possibility that a direct or indirect interest in the matter might arise.

(2) If at any stage during the course of any proceedings before the Board of the Liquor Authority it appears that a member who is present at that meeting has or may have an interest contemplated in subsection (1), such member must forthwith disclose the nature of his or her interest and leave the meeting.

(3) Any disclosure made in terms of subsection (1) must be recorded in the minutes of the meeting in question.

(4) If it subsequently emerges that the Board of the Liquor Authority took a decision on a matter in respect of which a member has failed to disclose an interest contemplated in subsection (1), such decision by the Board of the Liquor Authority is invalid.

(5) For the purposes of this section "**indirect interest**" includes, but is not limited to, an interest held by any member's –

- (a) business partner, associate or employer, other than the State;
- (b) spouse, partner in a customary marriage, or person with whom such member cohabits or lives as though they are married; or
- (c) child, parent or sibling.

Remuneration of members of Board of Liquor Authority

17.(1) A member of the Board of the Liquor Authority may be paid from the funds of the Liquor Authority such remuneration and allowances as may be determined by the responsible Member in consultation with the Member of the Executive Council responsible for Finance.

(2)(a) A member of the Board of the Liquor Authority and a person who has been co-opted to the Board of the Liquor Authority may, in respect of his or her functions as a member or co-opted member, receive reimbursement from the funds of the Liquor Authority for reasonable actual subsistence and traveling expenses necessitated by the actual attendance of a meeting of the Board of the Liquor Authority.

(b) The Member of the Executive Council for Finance must determine procedures, including control measures, for the management, handling and processing of claims for subsistence and traveling expenses contemplated in paragraph (a).

Expert and other assistance

18.(1) The Liquor Authority may appoint such experts or other persons as service providers as it may deem necessary with a view to assisting it in the exercise and performance of its powers, functions and duties.

(2) The terms, conditions, and fees applicable to any expert or person appointed under subsection (1), and the work to be performed or services to be rendered must be determined by the Liquor Authority, and be contained in a written agreement entered into for that purpose between the Liquor Authority and the expert or person concerned.

(3) The experts or other persons appointed under subsection (1) may not vote on any decision taken by the Board of the Liquor Authority.

**CHAPTER 3
CHIEF EXECUTIVE OFFICER AND OTHER
STAFF OF LIQUOR AUTHORITY**

Appointment of Chief Executive Officer of Liquor Authority

19.(1) The responsible Member must appoint a fit and proper person as the Chief Executive Officer of the Liquor Authority for a term of five years.

(2) The Chief Executive Officer is eligible for re-appointment.

(3)(a) The appointment of the Chief Executive Officer is subject to the conclusion of a written performance agreement entered into between that person and the responsible Member or his or her duly delegated representative.

(b) The responsible Member or his or her duly delegated representative and the Chief Executive Officer may, in writing and by agreement, amend the performance agreement.

(4) The responsible Member may terminate the Chief Executive Officer's employment in accordance with applicable employment and labour law.

(5) The Chief Executive Officer must be paid the remuneration and allowances as may be determined by the responsible Member in consultation with the Member of the Executive Council responsible for Finance.

(6) Sections 11 and 12 apply to the Chief Executive Officer, with the necessary changes, except that he or she must disclose his or her interests or any conflict of interest to the Liquor Authority.

Functions of, and removal of Chief Executive Officer

20.(1) In addition to the responsibilities assigned to him or her as the Accounting Authority in terms of section 49(2)(b) of the Public Finance Management Act, the Chief Executive Officer is responsible for –

- (a) the administrative and management of the Liquor Authority, subject to the direction of the responsible Member;

- (b) the compilation of a business and financial plan and reports in terms of the Public Finance Management Act, for approval by the responsible Member or his or her delegated representative;
- (c) the appointment of members of staff of the Liquor Authority referred to in section 21(1); and
- (d) the control of, and maintenance of discipline over, members of staff of the Liquor Authority.

(2) In respect of licence applications, the Chief Executive Officer must –

- (a) after an application for a licence or permit has been granted by the Board of the Liquor Authority, issue a licence certificate or permit in the applicant's name in the prescribed form;
- (b) keep and maintain in due and proper order, a register in respect of all decisions of the Board of the Liquor Authority in respect of such applications;
- (c) within 60 days after the end of each calendar year, publish in the *Gazette* and at least one newspaper widely circulated in the Province, the record of licences or permits, setting out the names of all persons –
 - (i) who had been issued with licences or permits on the last day of the relevant year;
 - (ii) whose licences or permits were cancelled during the relevant year;
 - (iii) who surrendered voluntarily, or have been finally sequestered, wound up or dissolved during the relevant year; and
 - (iv) who were refused a licence or permit during the relevant year;
- (d) maintain a catalogue in chronological order of all the decisions of the Board of the Liquor Authority, and after five years, may cause such decisions to be stored in the archives of the Province; and
- (e) perform all other functions and duties required of the Chief Executive Officer in terms of this Act.

(3) A licence certificate or permit issued in terms of subsection (2) must include –

- (a) a licence or permit number;
- (b) the date on which the applicant's name was entered in the register;
- (c) the fixed address of the premises in respect of which a licence or permit has been granted;

- (d) the conditions upon which the licence or permit was granted;
- (e) the trading hours and trading days applicable to the licence or permit; and
- (f) the category of licence or permit.

(4) If the Chief Executive Officer is for any reason unable to perform any of his or her functions, the responsible Member must, in writing, appoint another person as Acting Chief Executive Officer until the Chief Executive Officer is able to resume those functions. What about improper conduct, etc

(5) The responsible Member may, subject to applicable labour relations prescripts, remove the Chief Executive Officer from office –

- (a) on account of his or her improper conduct;
- (b) for unfitness for the functions of his or her office;
- (c) on the ground of a permanent infirmity of mind or body which renders him or her incapable of discharging the functions of his or her office or discharging them properly; or
- (d) on the ground that he or she is or has become subject to a disqualification envisaged in section 9.

(6) The responsible Member may, in order to determine whether there exists sufficient cause for the removal of the Chief Executive Officer from office as contemplated in subsection (5), initiate an inquiry or investigation for that purpose.

(7) Where an inquiry or investigation referred to in subsection (6) is initiated or considered, the relevant provisions of the Labour Relations Act, 1995 (Act No. 66 of 1995), apply.

(8) The responsible Member may, subject to the relevant labour law prescripts, place Chief Executive Officer on suspension pending the outcome of the inquiry or investigation contemplated in subsection (8).

(9) Any non-compliance by the Chief Executive Officer with any provision of this Act or the Public Finance Management Act, 1999 (Act No. 1 of 1999), constitutes improper

conduct contemplated in subsection (5)(a).

Staff of Liquor Authority

21.(1) The Chief Executive Officer must, subject to subsection (4), employ members of staff of the Liquor Authority to do the administrative, secretarial and other work incidental to the performance of the functions of the Liquor Authority.

(2) The Chief Executive Officer may, subject to approval by the Liquor Authority, designate a member of staff as the Registrar of the Liquor Authority.

(3) The Chief Executive Officer may delegate the functions contemplated in section 20(2), to the Registrar of the Liquor Authority.

(4) The Liquor Authority, in consultation with the responsible Member and the Member of the Executive Council responsible for Finance, must –

- (a) determine a human resources policy for the Liquor Authority; and
- (b) determine the remuneration and conditions of service of the Chief Executive Officer and the other members of staff of the Liquor Authority.

(5) The Liquor Authority must, in consultation with the Chief Executive Officer, determine a code of conduct, applicable to all members of staff of the Liquor Authority and justiciable for purposes of disciplinary proceedings, to ensure –

- (a) compliance with applicable law;
- (b) the effective, efficient and economical use of the Liquor Authority's funds and resources;
- (c) the promotion and maintenance of a high standard of ethics;
- (d) the prevention of conflicts of interest other than those contemplated in section 23;
- (e) the protection of confidential information held by the Liquor Authority; and
- (f) professional, honest, impartial, fair, ethical and equitable service.

Secondment of staff to Liquor Authority

22. The Liquor Authority may utilise the services of persons seconded or transferred from the public service in accordance with the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

Conflict of interest

23.(1) A member of staff of the Liquor Authority must, on appointment, submit to the Liquor Authority a written statement in which it is declared whether or not that member has any direct or indirect interest, financially or otherwise, which –

- (a) may constitute a conflict of interest in respect of his or her functions as a member of staff of the Liquor Authority; or
- (b) could reasonably be expected to compromise the Liquor Authority in the performance of its functions.

(2) If any member of staff of the Liquor Authority acquires an interest referred to in subsection (1), he or she must immediately in writing declare that fact to the Liquor Authority.

(3) A member of staff of the Liquor Authority may not be present at, or take part in, the discussion of or the taking of a decision on any matter before the Liquor Authority in which that member has an interest referred to in subsection (1).

(4) A member of staff of the Liquor Authority may not use his or her position or privileges, or confidential information obtained as a member of staff of the Liquor Authority, for personal gain or to improperly benefit another person.

(5) A member of staff of the Liquor Authority who fails or refuses to comply with subsection (1), (2), (3) or (4) is subject to disciplinary measures in terms of applicable employment and labour law, and the Public Finance Management Act.

(6) The Liquor Authority must keep a register of the interests of members of staff disclosed in terms of subsection (1) and must update that register from time to time.

CHAPTER 4 FUNDING AND FINANCIAL MANAGEMENT OF LIQUOR AUTHORITY

Funds of Liquor Authority

24.(1) The funds of the Liquor Authority consist of –

- (a) money appropriated by the Legislature to the Department; and
- (b) money accruing to the Liquor Authority from any other lawful source, including fees paid in terms of this Act.

(2) The Liquor Authority must utilise its funds to cover costs in connection with the performance of its duties and functions and the exercise of its powers in terms of this Act.

(3) The Chief Executive Officer must, with the concurrence of the responsible Member and the Member of the Executive Council for Finance –

- (a) open an account in the name of the Liquor Authority with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and
- (b) deposit therein all money received in terms of subsection (1).

Financial management

25.(1) The Chief Executive Officer must cause full and proper books of account and all the necessary records in relation thereto to be kept.

(2) The Chief Executive Officer must ensure that the Liquor Authority's annual budgets, corporate plans, annual reports and audited financial statements are prepared and submitted in accordance with the Public Finance Management Act.

(3) The Chief Executive Officer must, within three months before the end of each financial year, submit to the Liquor Authority for approval –

- (a) a business plan for the Liquor Authority, containing measurable objectives; and
- (b) a statement of the estimated income and expenditure of the Liquor Authority, in respect of the following three financial years.

(4) In any financial year the Chief Executive Officer may submit to the Liquor Authority for approval adjusted or supplementary statements of the estimated income and expenditure of the Liquor Authority for that financial year.

(5) The Liquor Authority may not enter into any financial commitment beyond its approved budget and its accumulated reserves.

(6) Where the Liquor Authority acts contrary to the provisions of subsection (5), the Chief Executive Officer must, within a reasonable time, inform the responsible Member.

Audit and annual report

26.(1) The Auditor-General must audit the financial statements of the Liquor Authority.

(2) The Chief Executive Officer must –

- (a) on behalf of the Liquor Authority table a report on the activities of the Liquor Authority during a financial year, in the Provincial Legislature, within five months after the end of that financial year; and
- (b) within five months after the report has been tabled, a delegation consisting of the chairperson of the Liquor Authority and at least two other members of the Liquor Authority must brief the relevant Portfolio Committee on the annual report.

(3) The report must –

- (a) include a balance sheet and a statement of income and expenditure certified by the Auditor-General;
- (b) state the extent to which the Liquor Authority has achieved or advanced its objects referred to in section 2 and the measurable objectives as set out in its business plan during the financial year concerned; and
- (c) contain relevant performance information regarding the economic, efficient and effective application of resources and specifically a comparison between planned and actual performance indicators as set out in that business plan.

CHAPTER 5

LIQUOR LICENSING OFFICER

Designation of liquor licensing officer

27. The responsible Member must, for the area of a district municipality in the Province, by notice in the *Gazette*, designate a liquor licensing officer.

Functions of liquor licensing officer

28.(1) A liquor licensing officer must receive all applications for licences made in terms of section 33, in accordance with the provisions of sections 34 to 38.

(2) Upon receipt of the applications contemplated in subsection (1), a liquor licensing officer must –

- (a) endorse on each application the date of receipt;
- (b) compile a list of applicants and retain and maintain the list as part of the report register contemplated in section 20(1)(b); and
- (c) examine and verify that the application is in order to determine whether it is complete.

(3) If a liquor licensing officer determines that the application is incomplete, he or she must within a reasonable period issue a notice in the prescribed form, calling on the applicant to supplement or remedy the incomplete application within 14 days.

(4) Once the verification process contemplated in subsection (2)(c) is complete, a liquor licensing officer must forward the application, to the Liquor Authority.

(5) A liquor licensing officer must advise the Liquor Authority or furnish a report to the Liquor Authority on any matter referred to him or her by the Liquor Authority for consideration and arising from the application of this Act, within a prescribed period of not more than 14 days.

(6) A liquor licensing officer must perform such other functions as may be assigned to him or her in terms of this Act.

Criteria for designation as liquor licensing officer

29. A person may not be appointed as a liquor licensing officer if that person –

- (a) is not a South African citizen and resident in the Province;
- (b) is an unrehabilitated insolvent;
- (c) is subject to an order of a court declaring such person to be mentally ill or disordered;
- (d) has at any time been convicted of any offence involving dishonesty: provided that a disqualification in terms of this subsection ends three years after the sentence has been served;
- (e) has at any time been removed from an office of trust on account of misconduct; or
- (f) has a direct or indirect financial interest in the liquor industry, or whose spouse, life partner or close relative has a direct or indirect financial interest in the liquor industry, where such relationship in the opinion of the responsible Member constitutes a conflict or potential conflict of interest.

CHAPTER 6
LICENSING PROCEDURE

Part 1
General

Compulsory licensing

30.(1) No person may sell liquor for retail or micro-manufacture liquor or methylated spirits unless that person is licensed in terms of this Act.

(2) Any person who contravenes subsection (1), commits an offence.

Categories of licences and permits

31.(1) An application for a liquor licence or permit in terms of this Act may be made in respect of the following categories –

- (a) a licence for the retail sale of liquor for consumption on the premises where the liquor is sold, namely –

- (i) an accommodation liquor licence;
 - (ii) a restaurant liquor licence;
 - (iii) a club liquor licence;
 - (iv) a nightclub liquor licence;
 - (v) a gaming premises liquor licence
 - (vi) a sports ground liquor licence;
 - (vii) a pub liquor licence;
 - (viii) a tavern liquor licence;
 - (ix) a theatre liquor licence; and
 - (x) vessel, boat/ship liquor licence.
- (b) a licence for the retail sale of liquor for consumption off the premises where the liquor is sold, namely –
- (i) a liquor store licence;
 - (ii) a grocers' wine licence;
- (c) a special events permit for specified events for the retail sale of liquor for consumption on the premises where liquor is sold;
- (d) a licence for the micro-manufacture and retail sale of such manufactured liquor for consumption on and off liquor where liquor is sold;
- (e) a licence for the micro-manufacture and retail sale of traditional African beer for consumption on and off the premises where such traditional African beer is sold;
- (f) a special liquor licence for the retail sale of liquor for consumption on and off the premises where liquor is sold

(2) a special events permit contemplated in subsection (1)(c) is only valid for a period stipulated in such permit ;

(3) a licence contemplated under subsection (1)(a)(vi) does not apply to a person who rents or owns either a hospitality suite or establishes a temporary media centre, fanpark or public viewing area within the parametres of the licensed sports ground.

Disqualification

32.(1) No person may be issued with a licence or permit if he or she –

- (a) is a minor on the date of submitting the application for a licence or permit;
- (b) is committed in terms of the Mental Health Act, 1973 (Act No. 18 of 1973), or the Mental Health Care Act, 2002 (Act No. 17 of 2002), as the case may be;
- (c) is an un-rehabilitated insolvent;
- (d) has in the preceding 10 years been sentenced for any offence to imprisonment without the option of a fine, unless the Board of the Liquor Authority is of the opinion that the offence is of such a nature that the offence does not render the applicant unsuitable to hold a licence or permit or unless the sentence has been set aside by a competent court or such a person has received a grant of amnesty or a free pardon;
- (e) has been convicted of a contravention of the Liquor Act, 1989 (Act No. 27 of 1989), within the three years immediately preceding the commencement of this Act;
- (f) has been convicted of an offence in terms of this Act: Provided that the person convicted will be disqualified from obtaining a licence or permit in the case of –
 - (i) a first offence, for a period of one year;
 - (ii) a second offence, for a period of two years; and
 - (iii) a third or subsequent offence, for a period of three years, calculated from the date of the sentence; or
- (g) has had his or her licence or permit cancelled in terms of this Act within a period of three years immediately preceding the lodgement of an application.

(2) No company, close corporation, co-operative, association, partnership or trust may be issued with a licence or permit if a person who is in terms of subsection (1) disqualified from being registered –

- (a) has a controlling interest in that company, close corporation, cooperative, association or trust;
 - (b) is a partner in that partnership; or
 - (c) is the main beneficiary under that trust,
- as the case may be.

Part 2

Applications for licences for the retail sale of liquor for consumption on and off the premises

Applications

33.(1) A person who wishes to apply for a liquor licence in respect of the categories listed under section 31(a) or (b) must –

- (a) lodge an application with the Liquor Authority in the prescribed manner and on the prescribed days; and
- (b) pay the prescribed application fee in the prescribed manner.

(2) The application must include and be accompanied by –

- (a) the physical address of the premises where the business will be conducted or a description of the location of the premises in terms of identifiable landmarks;
- (b) a detailed written motivation in support of the licence application;
- (c) the required particulars of the applicant;
- (d) the category in respect of which licensing is being sought;
- (e) in relation to the premises in respect of which licensing is being sought, the prescribed details in respect of the premises, including a detailed sketch plan of the premises;
- (f) proof of application for or proof of business or trading licence issued by the relevant municipality in terms of any law or by-law to enable the applicant to trade in the manner contemplated, where applicable;
- (g) a certificate issued by the South African Police Service indicating the criminal offences of which the applicant has been convicted, if any;
- (h) tax clearance certificate issued by South African Revenue Service indicating whether the applicant is registered as a taxpayer, and whether any taxes are outstanding
- (i) proof of lawful occupation of the premises, in the form of a title deed or a lease agreement in the name of the applicant or a permission to occupy the premises issued in favour of the applicant by the relevant authority, where applicable; and
- (j) a written consent from the owner of the premises or the relevant authority for the applicant to conduct the intended business from the premises concerned, where applicable.

(3) The Chief Executive Officer must –

- (a) receive all applications from the liquor licensing officer;

- (b) endorse on each application the date of receipt;
- (c) compile a list of applications and retain and maintain the list as part of the report register contemplated in section 20(1)(b); and
- (d) on receipt of an application, examine the application in order to determine whether it is complete.

(4) If the Chief Executive Officer determines that the application is incomplete, he or she must within 14 days issue a notice in the prescribed form, calling on the applicant to supplement or remedy the incomplete application within 14 days.

Notice of application

34.(1) The liquor licensing officer must notify the applicant within 7 (seven) days that the applicant must give notice of the application in a prescribed form as follows –

- (i) display a notice in the prescribed form and size in a prominent place at the proposed premises, so that it is visible to passers-by; and
- (ii) if the premises are in a residential area, serve notice of the application in the prescribed form on a member of a household over the age of sixteen years of each of the households occupying residences within a radius of 100 metres of the proposed premises;
- (c) the applicant must, simultaneously with publication of the application in the newspaper, deliver a copy of the application to the offices of the Station Commissioner of the South African Police Service in whose area of jurisdiction the proposed premises are or will be located; and
- (d) the applicant must submit proof of compliance within seven days from date of publication and notification to the liquor licensing officer.

(2) The notice in terms of subsection (1) (b) (ii) must remain in place for a period of 21 days from the date of display of the notice.

(3) The notices referred to in subsection (1)(b) must state that –

- (a) the application will be open for inspection at the offices of the relevant liquor licensing officer and the office of the relevant Station Commissioner of the South African Police Service for a period of 21 days from the date of publication of the

notice in the newspaper as contemplated in subsection (1)(b)(i); and
(b) any interested person may object to or make representations for or against the granting or refusal of the application to the relevant liquor licensing officer within the 21 day period.

(4) The relevant liquor licensing officer and Station Commissioner must, within the period of 21 days, allow any person to inspect and copy the application upon payment of the prescribed fee.

Objections and representations

35.(1) A person who has an interest in the granting or refusal of the application may, within the period referred to in section 34(3)(b) and in writing, object to or make representations for or against the granting or refusal of the application.

(2) The person making objections or representations must –

- (a) serve a copy thereof to the liquor licensing officer and to the applicant or his or her representative; and
- (b) submit proof of service to the applicant to the liquor licensing officer.

(3) The person making representations or objections must set out the following –

- (a) his or her full name and address;
- (b) his or identity number or, if a company or close corporation, its registration number;
- (c) if applicable, the name or address of his or her representative;
- (d) the nature of his or her interest in the granting or refusal of the application; and
- (e) comprehensive grounds for the objection to, or support of, the application.

(4) The applicant may, within seven days of receipt of an objection or representations, submit a written response to the liquor licensing officer.

Non-compliance with notification and publication

36.(1) The liquor licensing officer must –

- (a) examine the application within a reasonable time from the expiry of the 21 day period referred to in section 34(3), to determine whether the applicant has complied with the provisions of section 34; and
- (b) where such provisions have not been complied with, issue a notice to the applicant within a reasonable time to ensure compliance within 14 days.

(2) If the applicant fails to comply with the notice referred to in subsection (1) (b), the liquor licensing officer must decline the application and inform the applicant and the Chief Executive Officer accordingly.

Inspections

37.(1) On expiry of the periods referred to in section 35(1) and (4), the liquor licensing officer must direct an inspector as contemplated in section 73(1)(a) to carry out an inspection to determine –

- (a) the physical address or description of the location of the premises;
- (b) the proximity of other licensed premises within residential areas, schools and religious institutions to the proposed premises; and
- (c) the details referred to in section 33(2)(e).

(2) The inspector must conduct the inspection and submit a report in the prescribed form to the liquor licensing officer within 14 days.

Processing of application by liquor licensing officer

38.(1) On receipt of the report from the inspector referred to in section 37(2), the liquor licensing officer must process the application, taking into account the following –

- (a) the application form and all accompanying documents;
- (b) the inspection report referred to in section 37(2);
- (c) any written objections or representations received and any response thereto;
- (d) the criteria referred to in section 40(5) and (6); and
- (e) any other matter which, in the opinion of the liquor licensing officer, should be taken into consideration.

(2) After consideration of the application, the liquor licensing officer must within a period of 14 days –

- (a) submit a report to the Liquor Authority, accompanied by copies of all documentation received by it; and
- (b) in its report, make a recommendation to the Board of the Liquor Authority either to grant or refuse the application, subject to such terms and conditions it may deem appropriate.

Objection hearings

39.(1) Where the liquor licensing officer has received objections or representations in relation to an application, the Board of the Liquor Authority must, before considering an application, hold an objection hearing.

(2) The Board of the Liquor Authority must –

- (a) determine the date, time and place of the hearing; and
- (b) publish details thereof in the manner prescribed.

(3) At the hearing contemplated in subsection (1) –

- (a) the applicant must be afforded an opportunity to be heard;
- (b) any interested person may make oral or written representations; and
- (c) the applicant and each such person may be assisted or represented by any person of his or her choice.

(4) The Board of the Liquor Authority may, for the purpose of dealing with any matter before it at an objection hearing –

- (a) by written notice delivered in the manner prescribed, require any person to appear before it to give evidence or to produce any book, plan or other document or article in his or her possession or under his or her control;
- (b) call upon any person present in or at the place where such matter is dealt with by the Board of the Liquor Authority, to appear before it to give evidence or to produce any book, plan or other document or article which such person may at the time have in his or her possession;

- (c) question any person appearing before it;
- (d) refuse to hear a person appearing before it who refuses to be sworn in or to be affirmed; and
- (e) not hear any matter which is frivolous or vexatious, or which it does not have authority to hear as provided for in this Act.

(5) An objection hearing must be –

- (a) held in the manner prescribed; and
- (b) open to the public.

(6) The Chairperson or Deputy Chairperson of the Board of the Liquor Authority presiding over the objection hearing at which a person appears as a witness must administer an oath or affirmation to the witness.

Consideration of applications by Board of Liquor Authority

40.(1) The Liquor Authority must within 14 days of receipt of the application from the liquor licensing officer or, where an objection hearing was held in terms of section 44, within 14 days of conclusion of the hearing, consider the application.

(2) In considering the application, the Board of the Liquor Authority must consider all documents submitted, including the report and recommendations of the liquor licensing officer and any other matter which, in the opinion of the Board of the Liquor Authority, may be relevant.

(3) The Board of the Liquor Authority may, if considered necessary –

- (a) carry out an inspection of the premises; and
- (b) call upon the services of experts or other service providers as contemplated in section 18.

(4) After having considered an application, the Board of the Liquor Authority may –

- (a) grant the application, subject to –
 - (i) such terms and conditions it may deem fit;
 - (ii) such trading days and hours it may determine in accordance with section

70; and

(iii) in relation to premises not yet complete or that require structural alteration so as to make the premises suitable, such conditions relating to the completion or alteration of the premises as the Board of the Liquor Authority may deem fit, within a time period stipulated; or

(b) refuse the application.

(5) Before granting an application, the Board of the Liquor Authority must satisfy itself that –

(a) the granting of the application will be in the public interest;

(b) the applicant is not disqualified from holding a licence in terms of this Act;

(c) the premises upon which the sale or consumption of liquor will take place are or will upon completion be suitable for use by the applicant for the purposes of the licence; and

(d) the use of the proposed premises for the proposed activity would not be contrary to existing zoning laws or land use rights.

(6) In determining whether the application will be in the public interest as contemplated in subsection (5)(a), the Board of the Liquor Authority must consider, without detracting from the generality thereof, –

(a) the prejudice or harm, or potential prejudice or harm, of the proposed licence to or on residents, property owners, other businesses, property values, schools and religious institutions and established liquor outlets within a radius of 500 metres surrounding the proposed premises or in close proximity thereto; and

(b) the extent to which the proposed licence will contribute to, or detract from, the achievement of the objects of the Act, including the extent to which the proposed licence –

(i) will or is likely to impact on the socio-economic rights of society, including the prevalence of crime, and the costs of alcohol abuse;

(ii) will facilitate the entry of new participants and diversity in the liquor industry; and

(iii) will contribute to the fostering of an ethos of social responsibility in the liquor industry.

Conditional approvals

41.(1) The Board of the Liquor Authority may, when granting an application as contemplated in section 40(4)(a)(iii), direct in writing that the licence may not be issued until the applicant complies with such conditions as the Board of the Liquor Authority may deem appropriate to impose.

(2) The Liquor Authority may at any time, upon application by the applicant in the prescribed manner –

- (a) amend or withdraw the conditions;
- (b) extend the time period for such periods as may be prescribed; or
- (c) grant an amendment of the plan of the premises.

(3) If the applicant fails to comply with the conditions contemplated in subsections (1) and (2) within such period as the Liquor Authority may determine from the date of granting of the application, the granting of the licence will lapse and the licence will be deemed not to have been granted.

(4) If the Liquor Authority is satisfied that the applicant has complied with the conditions, it must grant the issue of the licence.

Special conditions

42.(1) The holder of a licence for the retail sale of liquor for consumption on the premises must ensure that liquor sold is consumed on the licensed premises and is not removed from such premises.

(2) The holder of a licence for the retail sale of liquor for consumption off the premises must ensure that –

- (a) a container containing liquor is not opened on the premises except for tasting purposes as granted by the Liquor Authority; and
- (b) liquor is not consumed on the licensed premises except for tasting purposes as granted by the Liquor Authority.

- (3) The holder of a grocers' wine licence may not sell liquor other than wine.
- (4) A licensed person may not lease the licence to any person or allow any person to carry on business in terms of the licence.
- (5) The holder of a theatre liquor licence –
 - (a) may not sell liquor to a person who has not been granted access to a performance, play, concert, show or film on the premises; and
 - (b) may only sell liquor on those days at which a performance, play, concert, show or film is presented or shown at the premises.
- (6) The holder of a tavern liquor licence must ensure that the licensed premises are separate from any other dwelling, especially a residential dwelling, and if attached to a dwelling, it must be separated by means of walls and securable doors.
- (7) A gaming premises liquor licence remains valid only for the duration of the gambling licence issued to the premises.
- (8) The holder of a sports ground liquor licence may only sell liquor on those days on which sports meetings, games or recreational activities are held on the sports ground concerned.
- (9) The holder of a club liquor licence may not sell liquor to a member's guest for his or her consumption, unless the member has entered his or her name and the name of the guest in the records of the club.
- (10) Any person who fails to comply with subsections (1) to (9) commits an offence.

Communication of decision

43.(1) Within seven days of the Board of the Liquor Authority having made a decision on an application, the Chief Executive Officer must communicate the decision in writing –

- (a) to the applicant and, where the application has been granted subject to conditions or has been refused, provide reasons for the decision; and

(b) to any person who objected to or made representations in the manner prescribed, where the application has been granted.

(2) The Chief Executive Officer must simultaneously inform the applicant that the licence will be issued upon payment of the prescribed fee.

Part 3

Applications for a special events permit

Applications

44.(1) Any person who intends to engage in the retail sale of liquor at a special event for consumption on the premises, must –

- (a) lodge an application for a special events permit with the Liquor Authority, in the prescribed manner, not less than 14 days prior to the date of the event; and
- (b) pay the prescribed application fee in the prescribed manner.

(2) The Liquor Authority may dispense with the prescribed period contemplated in subsection (1)(a) if such a period places an unfair burden on the applicant.

(3) The application must –

(a) specify the following particulars –

- (i) the physical address of the premises where the special event will take place or a description of the location of the premises in terms of identifiable landmarks;
- (ii) a detailed written motivation in support of the application;
- (iii) the required particulars of the applicant; and

(b) be accompanied by a letter from the organizer of the special event consenting to the issue of a special events permit to the applicant for that event.

(4) The Chief Executive Officer must –

- (a) receive all such applications;
- (b) endorse on each such application the date of receipt;
- (c) compile a list of the applicants and retain and maintain the list as part of the report register contemplated in section 20(1)(b); and
- (d) on receipt of the application, examine the application in order to determine

whether it is complete.

(5) If the Chief Executive Officer determines that the application is incomplete, he or she must notify the applicant in writing and call upon the applicant to supplement or remedy the incomplete application within five days.

Consideration of applications by Board of Liquor Authority

45.(1) On receipt of a complete application for a special events permit, the Liquor Authority must –

- (a) consider the application; and
- (b) in doing so, consider all documents submitted in support of the application.

(2) The Liquor Authority may –

- (a) grant the application, subject to such conditions as it deems appropriate; or
- (b) refuse the application.

(3) Before granting an application, the Liquor Authority must be satisfied that the retail sale of liquor for consumption on the premises concerned is not the principal business of the applicant and is incidental to the special event.

(4) An applicant whose application for a special events permit is successful may only sell liquor –

- (a) for consumption on the premises where the special event is held; and
- (b) at the place where, and during the times when, the special event is held, as set out in the application for a special events permit.

(5) A holder of a special events permit may not lease, sell, cede or in any other way transfer the permit to any other person or allow any other person to carry on business in terms of the permit.

(6) Any person who –

- (a) sells liquor at a special event without being in possession of a special events permit issued for that event;

- (b) is the holder of a special events permit and fails to comply with the conditions imposed by the Liquor Authority as contemplated under subsection (2)(a), or fails to comply with subsection (4); or
 - (c) contravenes subsection (5),
- commits an offence.

Communication of decision

46. Once the Liquor Authority has made a decision on an application for a special events permit, the Chief Executive Officer must communicate the decision to the applicant and, where applicable, inform the applicant that the permit will be issued upon payment of the prescribed fee.

Part 4

Applications for a micro-manufacturer's licence

Applications

47.(1) Any person who intends to engage in the micro-manufacturing of liquor or methylated spirits must –

- (a) apply to the Liquor Authority in the prescribed manner and form, and upon payment of the prescribed fee, for a licence to micro-manufacture liquor or methylated spirit; and
- (c) indicate clearly in the application the extent to which the person wishes to distribute liquor or methylated spirits.

(2) The application contemplated in subsection (1) must include and be accompanied by–

- (a) the physical address of the premises where the business will be conducted or a description of the location of the premises in terms of identifiable landmarks;
- (b) the required particulars of the applicant;
- (c) in relation to the premises in respect of which licensing is being sought, the prescribed details in respect of the premises, including a detailed sketch plan of the premises showing the rooms, services, buildings, construction material and other pertinent information together with photographs of the external and internal

features of the premises;

(d) proof of a business or trading licence issued by the relevant municipality in terms of any law or bylaw to enable the applicant to trade in the manner contemplated, where applicable;

(e) a certificate issued by the South African Police Service indicating the criminal offences of which the applicant has been convicted, if any;

(f) a certificate issued by South African Revenue Service indicating whether the applicant is registered for Value Added Tax or is otherwise registered as a taxpayer, and whether any taxes are outstanding;

(g) proof of lawful occupation of the premises, in the form of a title deed or a lease agreement in the name of the applicant or a permission to occupy the premises issued in favour of the applicant by the relevant authority, where applicable; and

(h) a written consent from the owner of the premises or the relevant authority for the applicant to micro-manufacture liquor from the premises concerned, where applicable.

(3) The Chief Executive Officer must –

(a) receive all such applications directly from the applicants or from the local officers;

(b) endorse on each such application the date of receipt;

(c) compile a list of applicants and retain and maintain the list as part of the report register contemplated in section 20(1)(b); and

(d) on receipt of the application, examine the application in order to determine whether it is complete.

(4) If the Chief Executive Officer determines that the application contemplated in section 47(1) is incomplete, he or she must within a reasonable period issue a notice in the prescribed form, calling on the applicant to supplement or remedy the incomplete application within 14 days.

Inspections

48.(1) The Chief Executive Officer must within 14 days of receipt of a complete

application contemplated in section 47(1), request an inspector to inspect the premises to determine the suitability thereof.

(2) An inspector must conduct an inspection contemplated in subsection (1) and verify the following information –

- (a) the physical address or description of the location of the premises as referred to in section 47(2)(a);
- (b) the details referred to in section 47(2)(c); and
- (c) proof of a business or trading licence as contemplated under section 47(2)(d).

(3) The inspector, after having completed the inspection, must submit a report, with recommendations, in the prescribed format to the Liquor Authority within 14 days.

Consideration of applications by Liquor Authority

49.(1) Upon receipt of the report from the inspector referred to in section 48(3), the Liquor Authority must consider the application contemplated in section 47(1).

(2) In considering the application contemplated in section 47(1), the Liquor Authority must consider all the documents submitted, including the report of the inspector referred to in section 48(3).

(3) After having considered the application contemplated in section 47(1), the Liquor Authority may –

- (a) grant the application, subject to –
 - (i) such terms and conditions as it may prescribe; and
 - (ii) in relation to premises not yet complete or that require structural alteration so as to make the premises suitable, such conditions relating to the completion or alteration of the premises as the Liquor Authority may deem fit, within a time period stipulated; or
- (b) refuse the application.

(4) Before granting an application contemplated in section 47(1), the Liquor Authority must be satisfied that –

- (a) the granting of the application is in the public interest;
- (b) the applicant is not disqualified from holding a licence in terms of this Act;
- (c) the premises upon which the micro-manufacture of liquor will take place are or will upon completion be suitable for use by the applicant for the purposes of the licence; and
- (d) the use of the proposed premises for the proposed activity would not be contrary to existing zoning laws or land use rights.

(5) In determining whether the application contemplated in section 47(1) is in the public interest as contemplated in subsection (4)(a), the Liquor Authority must consider, without detracting from the generality thereof –

- (a) the prejudice or harm, or potential prejudice or harm, of the proposed licence to or on residents, property owners, other businesses, property values, schools and religious institutions within a radius of 500 metres surrounding the proposed premises or in close proximity thereto; and
- (b) the extent to which the proposed licence will contribute to, or detract from, the achievement of the objects of the Act, including the extent to which the proposed licence –
 - (i) will or is likely to impact on the incidence, socio-economic effects, including the prevalence of crime, and the costs of alcohol abuse;
 - (ii) will facilitate the entry of new participants and diversity in the industry; and
 - (iii) will contribute to the fostering of an ethos of social responsibility in the industry.

Conditional approvals

50.(1) The Liquor Authority may, when granting an application as contemplated in section 49(3)(a)(ii), direct that the licence may not be issued until the applicant complies with such conditions as the Liquor Authority may deem appropriate.

(2) The Liquor Authority may at any time, upon application by the applicant –

- (a) amend or withdraw the conditions;
- (b) extend the time period stipulated; or

(c) grant an amendment of the plan of the premises.

(3) If the applicant fails to comply with the conditions referred to in subsection (1) or (2) within such period as the Liquor Authority may determine, the granting of the licence will lapse and the licence will be deemed not to have been granted.

(4) If the Liquor Authority is satisfied that the applicant has complied with the conditions stipulated, it must grant the issue of the licence.

Communication of decision

51.(1) Within seven days of the Liquor Authority having made a decision on an application, the Chief Executive Officer must communicate the decision in writing to the applicant, and where the application has been granted subject to conditions or has been refused, provide reasons for the decision.

(2) The Chief Executive Officer must simultaneously inform the applicant that the licence will be issued upon payment of the prescribed fee.

Special conditions

52.(1) Subject to the conditions of a licence, a micro-manufacturer must –

- (a) manufacture liquor in volumes not exceeding the prescribed threshold volume determined in terms of section 4(10) of the Liquor Act;
- (b) distribute the liquor that it has manufactured to –
 - (i) another manufacturer or to a distributor;
 - (ii) to a retail seller if, and to the extent, permitted by the licence.

(2) A micro-manufacturer may hold more than one category of licence referred to in section 36.

(3) A micro-manufacturer must sell or distribute liquor only to a licensed person.

(4) For purpose of subsection (3), a “licensed person” includes a person to whom a

licence has been issued in terms of –

- (a) this Act;
- (b) the Liquor Act; or
- (c) any other applicable legislation.

(5) A micro-manufacturer may not lease the licence to another person or allow another person to carry on business in terms of the licence.

(6) Any person who fails to comply with subsections (1), (3) and (5) commits an offence.

Part 5 Appeals

Appeals against decisions of Liquor Authority

53.(1) A person affected by a decision taken by the Liquor Authority and who wishes to appeal against the decision, must lodge a notice of intention to appeal with the responsible Member within 10 days after that person has been notified of the decision.

(2) The appeal under sub-section (1) must be noted and must be dealt with in the manner prescribed and upon payment of a prescribed fee;

(3) The appellant must serve on each person and interested and affected party in relation to the application, a copy of the notice referred to in subsection (1)

(4) The responsible Member may, in writing and on good cause, extend the period within which a notice of intention to appeal must be submitted.

(5) An appeal contemplated in subsection (1) must be in writing and accompanied by –

- (a) a statement setting out the grounds of appeal;
- (b) prescribed appeal fee proof of payment; and
- (b) supporting documentation which is referred to in the appeal and which is not in the possession of the responsible Member.

(5) An appeal must be submitted to the responsible Member within 30 days of the lodging of the notice of intention to appeal referred to in subsection (1).

(6) The responsible Member may consider and decide an appeal lodged in terms of subsection (1) or appoint an appeal panel to consider and advise the responsible Member on the appeal;

(7) When the responsible Member has reached a decision on an appeal, the appellant must be notified in writing, of the decision and the extent to which the decision appealed against is upheld or overturned.

(8) The responsible Member may after considering such an appeal, confirm, set aside or vary the decision, condition or directive or make any other appropriate decision, including a decision that the prescribed fee paid by the appellant, or any part thereof, be refunded;

(9) An appeal under this section does not suspend the Liquor Authority decision, condition, unless otherwise directed by the responsible Member.

(10) The powers vested in the responsible Member in terms of this section may be delegated to any *ad hoc* or permanent Appeals Authority appointed by the responsible Member, in a prescribed manner.

Part 6 *Licencing*

Licence certificate or permit

54.(1) The Chief Executive Officer must, after a licence or permit has been granted by the Liquor Authority and after having received payment of the prescribed licence or permit fee –

(a) issue a licence certificate or permit in the applicant's name in the prescribed form, which must include –

- (i) a licence or permit number;
- (ii) the date on which the applicant's name was entered in the register;
- (iii) the premises in respect of which a licence or permit has been granted, if applicable;
- (iv) the terms and conditions upon which the licence or permit was

- granted, including the trading days and trading hours; and
- (v) the category of licence or permit; and
- (b) send the licence certificate or permit to the applicant.

(2) The licence or permit of any licensed person takes effect on the date on which the licence certificate or permit is issued and remains in effect until –

- (a) the licence or permit is cancelled in terms of this Act; or
- (b) the licensed person is –
 - (i) deceased;
 - (ii) finally sequestrated or finally wound up, as the case may be;
 - (iii) dissolved or deregistered, as the case may be; or
 - (iv) no longer trading,

subject to the provisions of section 65.

Effects of licensing

55.(1) The licence certificate or permit issued to a person or a duly certified copy thereof, is sufficient proof that the person –

- (a) has met all the requirements for a valid licence or permit to have been granted; and
- (b) has been licensed or permitted in terms of this Act.

(2) A licensed person must –

- (a) reflect his, her or its licensed status and licence or permit number on all of that person's Departmental correspondence
- (b) display a certified copy of the licence certificate or permit at any fixed premises in respect of such licensing, including a certified copy of the terms and conditions applicable to the licence or permit; and
- (c) display a certified copy of proof of payment of the annual fee.

(3) Upon the issue of a licence or permit the licensed person is permitted to commence trade forthwith.

(4) A licensed person must for the duration of the licence or permit show a clear and

continuous commitment to the social responsibility programme as contemplated in section 4(b).

(5) Any person who fails to comply with the provisions of subsection (2)(a)(b) and (c) commits an offence.

Annual fee

56.(1) All licensed persons must pay the prescribed annual fee in respect of each licence issued to such licensed persons, on or before the prescribed date.

(2) Should a licensed person fail to pay the annual fee for a particular licence on or before the due date –

- (a) the licence will immediately become suspended;
- (b) the licensed person must forthwith cease trading in terms of that licence; and
- (c) the annual fee will attract a penalty calculated in accordance with the provisions of subsection (4).

(3) Upon receipt by the Liquor Authority of the late payment of the annual fee together with the penalty referred to in subsection (2)(c), the suspension on that licence will immediately be lifted and the licensed person may forthwith continue trading.

(4) The penalty for each month, or part of each month that the annual fee is overdue, will be an amount equal to the prescribed annual fee, subject to a maximum penalty of six times the annual fee.

(5) If the annual fee, together with the penalty referred to in subsection (4), is not paid during the seventh month after the annual fee is due, the Liquor Authority must instruct the Chief Executive Officer to, subject to the relevant provisions of the Promotion of Administrative Justice Act, 2000 (Act No.3 of 2000), –

- (a) cancel the licence in question;
- (b) endorse the register accordingly; and
- (c) notify the licensed person in writing of the cancellation, the reasons for the cancellation and the date of the cancellation.

(6) If a licence certificate has been cancelled in terms of subsection (5), all the rights, benefits and allowances accruing therefrom lapse immediately.

Cancellation of licence on grounds of disqualification

57.(1) If a licensed person becomes disqualified or otherwise incompetent in terms of this Act, the Liquor Authority must instruct the Chief Executive Officer to –

- (a) cancel the person's licence certificate or permit;
- (b) notify the person in writing of the cancellation, the reasons therefor and the date on which the licence or permit was cancelled; and
- (c) amend the register accordingly.

(2) For the purposes of subsection (1), cancellation takes effect on the date on which the licence certificate or permit is cancelled by the Chief Executive Officer.

(3) When a licence certificate or permit has been cancelled in terms of subsection (1), all the rights, benefits and allowances accruing therefrom lapse immediately.

Cancellation of licence due to non-trading

58.(1) The Liquor Authority may, on application by an interested person in the prescribed manner, cancel a licence where the Liquor Authority is satisfied that the licence holder has not been trading in the manner contemplated by the licence for a continuous period of 12 months.

(2) The procedure to be followed once an application referred to in subsection (1) has been received must be prescribed by the responsible Member.

(3) Once a licence has been cancelled by the Liquor Authority, the Chief Executive Officer must amend the register and notify the licence holder in writing accordingly.

(4) Cancellation of a licence as contemplated in subsection (1) takes effect on the date on which the licence certificate is cancelled by the Registrar.

(5) When a licence has been cancelled in terms of subsection (1), all rights, benefits and allowances accruing therefrom lapse immediately.

Part 7

Voluntary surrender, death or incapacity of the licence or permit holder and transfer of financial interests

Voluntary surrender of liquor licence and winding-up or dissolution

59.(1) A licensed person may surrender his, her or its liquor licence or permit voluntarily by sending the Liquor Authority a notice in writing –

- (a) stating the person's intention and reasons for the voluntary surrender; and
- (b) specifying a date, at least 60 days after the date of the notice, on which the surrender is to take effect.

(2) If a licensed person or permit holder is sequestered or wound up or ceases to trade as a licensed person, that person must within 30 days of the sequestration, winding-up or cessation of trade, send to the Liquor Authority a written notice –

- (a) stating that fact; and
- (b) containing certified copies of all relevant documents confirming the sequestration, winding-up or cessation of trade.

(3) Upon receiving a notice referred to in subsection (1) and (2), the Board of the Liquor Authority must instruct the Chief Executive Officer to –

- (a) cancel the licence certificate or permit of the person or endorse the transfer of the person's licence certificate or permit to the relevant administrator, with effect from the date specified in the notice;
- (b) amend the register accordingly; and
- (c) notify the person and the relevant administrator, if any, in writing of the date on which cancellation or transfer to the administrator was effected in the register.

Death or incapacity of certain licensed persons or permit holders

60.(1) If a licensed person or permit holder dies, is sequestered, placed in liquidation or

under judicial management, or is declared by a court to be incapable of handling his or her own affairs –

- (a) the relevant administrator must, subject to the law regarding deceased estates, insolvency, judicial management or mental health, as from the date of his or her appointment as such, for all purposes become the licensed person or permit holder; and
- (b) the relevant administrator may, for the purposes of the administration or management of the estate concerned, conduct the business to which the licence or permit relates.

(2)(a) The Liquor Authority may –

- (i) on application by any person; and
 - (ii) if satisfied that every person who has a financial interest in the business referred to in subsection (1) has been given reasonable notice of the application, appoint any person who is not disqualified or otherwise incompetent in terms of this Act to hold the relevant licence or permit, to conduct the business until the appointment of the relevant administrator.
- (b) Subject to the appointment of the relevant administrator, a person appointed in terms of paragraph (a) is, subject to the law regarding deceased estates, insolvency, judicial management or mental health, for the period of his or her appointment regarded as the licensed person or permit holder.

(3) If the only member of a company or close corporation which is a licensed person or permit holder dies, is sequestered, liquidated or placed under judicial management, or is declared by a court to be incapable of handling his or her own affairs, subsections (1) and (2) apply with the necessary changes.

Transfer of financial interest

61.(1) A licensed person may not transfer to any other person a financial interest in the business to which the licence relates, unless the Liquor Authority has, on application by the licensed person made in the prescribed manner, granted consent that the other person may procure that interest in that business.

(2) The Liquor Authority must grant consent under subsection (1) except if the person who is the subject of the application is disqualified in terms of this Act to be licensed.

Part 8
Payment into Provincial Revenue Fund

Payment of fees into Provincial Revenue Fund

62. All prescribed fees received by the Liquor Authority in terms of this Act must be paid into the Provincial Revenue Fund.

CHAPTER 7
PROVISIONS APPLICABLE TO LICENSED PERSONS

Delivery of liquor

63.(1) A holder of a licence for the retail sale of liquor for consumption off the premises where liquor is sold may not –

(a) deliver liquor from a vehicle unless –

- (i) the liquor was ordered from the licensed premises before the dispatch of the liquor; and
- (ii) an invoice or delivery note was issued, the original of which was retained on the licensed premises; and

(b) deliver liquor –

- (i) to an address other than the address shown on the invoice or delivery note referred to in paragraph (a)(ii); and
- (ii) without retaining a copy of the invoice or delivery note in the delivery vehicle from the time of dispatch to the time of delivery of the liquor.

(2) A person may not accept delivery of liquor purchased from a supplier unaccompanied by an invoice or delivery note describing the name, address and licence number of the supplier as well as the nature, quantity and purchase price of the liquor supplied.

(3) Any person who fails to comply with subsections (1) and (2) commits an offence.

Alteration of licensed premises or nature of business

64.(1) A licensed person may not, except with the prior consent of the Liquor Authority –

- (a) materially change the nature of the business in respect of which the licence was granted from that described in the application considered by the Liquor Authority when granting the licence; or
- (b) carry out any structural alteration, addition, reconstruction or extension of, or to, the licensed premises.

(2) Any person who fails to comply with subsection (1) commits an offence..

Storage of Liquor

65.(1) A licensed person or permit holder must store his or her liquor on the licensed premises or in such other or additional place within the Province as the Liquor Authority may grant.

(2) The licensed person or permit holder contemplated in subsection (1), may not sell liquor in or from such other or additional place of storage.

(3) Any person who fails to comply with subsections (1) and (2) commits an offence..

Transfer of licence to another person

66. A licensed person may apply to the Liquor Authority in the prescribed manner for the transfer of that person's licence to another person who is not disqualified in terms of section 32 to be a licensed person.

Transfer of licence from licensed premises to other premises

67. A licensed person may apply to the Liquor Authority in the manner prescribed for the transfer of a licence from the licensed premises to other premises situated in the same district or metropolitan municipality.

Prohibition on sale or supply of liquor to certain persons

68.(1) A person may not –

- (a) sell liquor to a person under the age of 18 years;
- (b) give or supply liquor to a person under the age of 18 years or allow such a person in his or her care or under his or her supervision to consume liquor, except where it is given or supplied in negligible quantities and in the performance of a religious ceremony or service;
- (c) allow a person under the age of 18 years to consume liquor on premises of which he or she is the licensed person or which are under his or her control;
- (d) allow a person under the age of 18 years to be in a part of the licensed premises upon which such a person may not be in terms of this Act, or in terms of a condition of the licence save for persons who are being trained at such licensed premises; or
- (e) sell or supply liquor to any person who is intoxicated, violent, disorderly or under the influence of a drug having a narcotic effect.

(2) A person under the age of 18 years may not –

- (a) obtain or consume liquor in contravention of this Act; or
- (b) mislead any person as to his or her age in order to obtain or consume liquor or to gain access to parts of licensed premises which such person may not enter.

(3) Any person who fails to comply with subsections (1) and (2) commits an offence..

Management of business

69.(1) A business may not operate under a licence in terms of this Act unless –

- (a) it is managed by a natural person who is not disqualified or incompetent in terms of this Act to be a licensed person;
- (b) the natural person contemplated in paragraph (a) is appointed in terms of a written contract of employment to manage and be responsible for that business.

(2) A natural person who is a licensed person may, in terms of a written contract of

employment, appoint another natural person who is not disqualified or incompetent in terms of this Act to be a licensed person, to manage and be responsible for the business to which the said licence relates.

(3) If a licensed person or the only member of a company or close corporation which is a licensed person –

(a) has abandoned the licensed premises without making provision for the conduct

thereon of the business to which the licence relates;

(b) becomes a person who is disqualified or otherwise incompetent in terms of this Act to be a licensed person; or

(c) in the case of a partnership, is dissolved,

the Liquor Authority may, on application by a person who has an interest in the relevant business, appoint any person who is fit to manage and be responsible for that business for a period of not more than 12 months, and a person so appointed is, subject to subsection (4)(b), for the period of his or her appointment regarded as a licensed person.

(4) An appointment in terms of subsection (3) –

(a) is subject to the conditions set out in the appointment by the Liquor Authority;

(b) does not affect any right of a person who has an interest in the business concerned; and

(c) may be withdrawn by the Liquor Authority on good cause.

(5) A person managing and responsible for a business to which a licence relates is subject to the same obligations and liabilities as the relevant licensed person and is required to be at all operating hours of the licensed premises, physically present on the licensed premises.

(6) Subsection (5) must not be interpreted so as to release the licensed person from any obligation or liability to which such person is subject to in law.

Trading days and trading hours

70.(1) A licensed person may sell liquor only on such days and during such trading hours as stipulated in Schedule 3.

(2) The responsible Member may from time to time, by notice in the *Gazette* and subject to the relevant provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 2 of 2000), amend Schedule 3.

(3) Notwithstanding the provisions of subsection (1) an applicant whose licensed premises are within a business area may apply to the Liquor Authority for a permit to exceed the trading days and hours stipulated in Schedule 3 for the particular category of licence.

(4) The provisions of subsection (3) do not apply to the trading days and hours determined by a municipal by-law in respect of the business to which the liquor licence relates.

(5) In determining the trading days and hours, the Board of the Liquor Authority must consider the recommendations of the liquor licensing officer, where applicable.

(6) A holder of a permit may sell liquor only on the days and during the hours stipulated on the permit.

(7) A licensed person or permit holder who sells liquor at a time when the sale of liquor is not permitted by the licence or permit, commits an offence.

Limitations on employers

71.(1) No licensed person may employ any person in or in connection with the sale of liquor who –

- (a) has not attained the age of 16 years; or
- (b) has within the preceding three years been convicted of contravening this Act.

(2) Subsection (1)(a) does not apply to any person of or under the age of 16 years who is undergoing or has undergone training in catering services, and who is employed by

the licensed person as part of his or her training.

(3) An employer may not –

- (a) supply liquor to a person as an inducement to secure his or her employment;
- (b) supply liquor to an employee instead of wages;
- (c) deduct from an employee's wages the cost of liquor supplied to that employee or to any other person on his or her behalf; or
- (d) withhold payment of the wages of that employee pending the repayment of a debt in respect of the sale of liquor.

(4) Any person who fails to comply with subsections (1) and (3) commits an offence.

Place of sale

72.(1) A licensed person may not sell or supply liquor from any place other than the licensed premises.

(2) Any person who fails to comply with subsection (1) commits an offence.

CHAPTER 8 INSPECTORS AND COMPLIANCE

Part 1 Inspectors

Appointment of, and matters related to appointment of inspectors

73.(1) The responsible Member –

- (a) may appoint any person as an inspector, with either general or specific authority to exercise powers in terms of this Act; and
- (b) must issue to each inspector a certificate in the prescribed form stating that that person has been appointed as an inspector.

(2) The minimum requirements for the appointment contemplated in subsection (1)(a) is a senior certificate.

(3) An inspector appointed in terms of subsection (1)(a) must within three months of such appointment, undergo any requisite training in terms of any applicable national or provincial legislation and must be appointed as a Peace Officer in terms of a notice contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(4) A certificate issued in terms of subsection (1)(b) is sufficient evidence of the authority of the inspector named on it.

(5) An inspector must, when exercising his or her functions in terms of this Act, upon demand by any person affected by the performance of that function, provide proof of appointment as an inspector.

(6) A person is disqualified from being appointed as an inspector if he or she –

- (a) is under the age of 18 years on the date of appointment;
- (b) is an unrehabilitated insolvent;
- (c)(i) is a person under curatorship;
- (ii) is certified under section 9 of the Mental Health Act, 1973 (Act No. 18 of 1973), and has not been discharged from an institution contemplated under such Act; or
- (iii) can be conclusively shown to be of unsound mind or suffering from infirmity of body which prevents him or her from the proper execution of his or her duties;
- (d) has at any time been removed from an office of trust on account of misconduct involving theft or fraud;
- (e) is or has been convicted and sentenced to a term of imprisonment without the option of a fine, except that the responsible Member may, upon a person who is being considered for appointment as an inspector disclosing full details of an offence in an affidavit, condone a conviction: Provided that it is not a conviction for an offence involving murder, culpable homicide involving an assault, rape, robbery, theft, fraud, forgery and uttering, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998) or the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), any serious offence involving dishonesty, an offence involving trafficking in scheduled substances

and drugs, an offence relating to proceeds of defined crime as contemplated in the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992), or any offence under this Act or any other similar law: Provided, further, that –

- (i) any conviction or sentence imposed by a court beyond the borders of the Republic of South Africa must not be taken into account for the purposes of this paragraph unless at that time such offence would have been an offence if committed within the Republic of South Africa; and
- (ii) for the purposes of this paragraph, a person is regarded not to have been convicted and sentenced –

- (aa) until any appeal noted or lodged against such conviction or sentence has been heard and judgement given on such appeal;
- (bb) until the time permitted by law for the noting or lodgement of any appeal against such conviction or sentence has lapsed without any such appeal being noted or lodged; or
- (cc) if he or she has been granted amnesty or a free pardon by the competent authority;

(f) or his or her relative, whether as a director, member, partner or employee –

- (i) has or acquires a direct or indirect financial interest in a licence issued in terms of this Act, or in premises used for an activity that must be licensed in terms of this Act; or
- (ii) has or acquires an interest in a business or enterprise that may conflict or interfere with the proper performance of the duties of an inspector.

(7) For the purposes of this section, a financial interest does not include an indirect interest held in any fund or investment if the person holding that interest has no control over the investment decisions made in respect of that fund or investment.

(8) The responsible Member may forthwith remove an inspector from his or her duties and take appropriate steps to terminate the services of such inspector, and the Liquor Authority has similar powers in respect of any person who is specially authorised by it to exercise any authority or perform any duty conferred on an inspector by this Act, if such inspector –

- (a) is subject to a disqualification contemplated in section 9;
- (b) violates his or her position of public trust;

- (c) exceeds his or her powers in terms of this Act;
- (d) is convicted of an offence in terms of this Act; or
- (e) conducts himself or herself, during the course of exercising the functions and powers under this Act, in a manner which discredits the position of an inspector.

(9) An inspector is in a position of public trust and may not –

- (a) accept any donation, reward or other benefit from or on behalf of any person, a licensee or registrant under this Act or any other person associated with a manufacture or sale of liquor and neither may any such licensee, registrant or person give or offer or intimate that he or she is willing to give or offer any donation, reward or other benefit;
- (b) participate in any gaming or betting activity contemplated in this Act in the Province, except in the performance of his or her duties; and
- (c) solicit or accept employment from a licensee or registrant or an applicant for a licence or registration in terms of this Act within one year after the termination of his or her appointment as an inspector: Provided that an inspector may solicit and accept such employment within such period if –
 - (i) the Liquor Authority has consented thereto in writing, after having satisfied itself that –
 - (aa) exceptional circumstances exist; and
 - (bb) such employment would not frustrate the purpose of this Act; and
 - (ii) the responsible Member has concurred with the Liquor Authority.

Functions of inspectors

74.(1) An inspector may –

- (a) investigate complaints submitted to the Liquor Authority, in the prescribed manner and form; and
- (b) subject to this Act or any other law authorizing the inspector to conduct an inspection –
 - (i) monitor and enforce compliance with this Act or that law; and
 - (ii) conduct an inspection under this Act or that law.

(2) Subject to sections 76(2) and 80(1) and (3) and the provisions of any other law, an inspector may –

- (a) question any person present on any premises in respect of any matter which may be relevant to the inspection;
- (b) question any person whom the inspector on reasonable grounds believes may have information relevant to the inspection;
- (c) inspect any document that a person is required to maintain in terms of this Act or any other law or that may be relevant to any liquor related inspection;
- (d) copy the document referred to in paragraph (c), or if necessary, remove the document in order to copy it;
- (e) take samples of any substance that is relevant to the inspection;
- (f) take photographs or make audio-visual recordings of anything or any person, process, action or condition on or regarding any land or premises;
- (g) with the assistance of a police officer from the South African Police Service seize and remove any liquor which in his or her opinion may furnish proof of a contravention of any provision of this Act; and
- (h) do all things necessary for conducting the inspection.

(3) An inspector who removes anything other than a substance contemplated in subsection (2)(e) from premises being inspected, must –

- (a) issue a receipt for it to the owner, or person in control, of the premises; and
- (b) secure the goods pending a decision concerning forfeiture in terms of section 88(3), or return it as soon as practicable after achieving the purpose for which it was removed.

Entry with warrant

75.(1) An inspector may with the assistance of a police officer from the South African Police Service enter any premises if a magistrate has issued a warrant in accordance with subsection (2) to enter or inspect the premises, and the warrant is still valid.

(2) A magistrate may issue a warrant to enter and inspect any premises, if, from information in writing on oath, the magistrate has reason to believe that –

- (a) it is necessary to obtain information, in the interest of the public, that cannot

be obtained without entering those premises; or

(b) there is non-compliance with this Act.

(3) A warrant in terms of subsection (2) may be issued at any time and must specifically

(a) identify the premises that may be entered and inspected; and

(b) authorise the inspector to enter and inspect the premises and to do anything contemplated in section 74.

(4) A warrant in terms of subsection (2) is valid until –

(a) it is executed;

(b) it is cancelled by the magistrate who issued it or, in the magistrate's absence, by any other judicial officer;

(c) the purpose for which it was issued has lapsed; or

(d) 90 days have passed since the date it was issued.

(5) Before commencing any inspection, an inspector who carries out a warrant must –

(a) if the owner or a person apparently in control of the land or premises is present –

(i) identify himself or herself and explain his or her authority to that person or furnish proof of his or her appointment; and

(ii) hand a copy of the warrant to that person or a person named in it; or

(b) if the owner or person apparently in control of the premises is absent or refuses to accept a copy, attach a copy of the warrant to the premises in a prominent and visible place.

Entry without warrant

76.(1) An inspector who does not have a warrant in his or her possession may with the assistance of a police officer from the South African Police Service enter and inspect –

(a) any premises with the consent of the owner or person apparently in control of those premises;

(b) any licensed premises on a routine basis, to determine compliance with the terms and conditions of the licence;

- (c) any premises in respect of which there is an outstanding compliance notice issued in terms of section 81, for the purpose of determining whether that notice has been complied with;
- (d) any premises where there are reasonable grounds to believe that a warrant would be issued in terms of section 75 and the delay in obtaining such warrant would defeat the object of the warrant; or
- (e) any premises if authorised to do so by any other law.

(2) Before commencing an inspection on any premises in terms of this section, an inspector must identify himself or herself, explain his or her authority, and furnish proof of his or her appointment to the person apparently in control of the premises or the person who gave permission to enter.

(3) An entry and inspection contemplated in subsection (1)(b) and (c) may be carried out only during the trading hours applicable to that licensed premises.

Use of force

77.(1) An inspector carrying out a warrant in terms of section 75, may overcome any resistance to entry or inspection by using the force that is reasonably required, including breaking a lock, door or window of the premises to be entered.

(2) Before using force, the person carrying out the warrant must audibly demand admission and must announce his or her purpose, unless he or she reasonably believes that doing so may induce someone to destroy, dispose of, or tamper with, any object or document that is the object of the inspection.

(3) Subject to any other law, or except in the case of an emergency, force may not be used to effect an entry or conduct an inspection in terms of section 76.

Inspector may be accompanied

78. An inspector may be accompanied during an inspection by a police officer from the South African Police Service or any other person reasonably required, to assist in

conducting the inspection.

Duty to produce documents

79.(1) Any person who is in possession of any document relevant to an inspection, must produce such document at the request of the inspector.

(2) Any person who fails to comply with subsection (1), commits an offence..

Duty to answer questions and assist inspector

80.(1) Before questioning a person in terms of this Chapter, an inspector must inform that person of his or her applicable constitutional right.

(2) A person who is questioned by an inspector in terms of this Chapter must answer every question truthfully and to the best of his or her ability.

(3) An answer or explanation given to an inspector may not be used or admitted in criminal proceedings against the person who provides it, except in proceedings against that person on a charge relating to –

- (a) the administration or taking of an oath;
- (b) the making of false statements; or
- (c) the failure to answer a lawful question fully and satisfactorily.

(4) An owner or occupier of any premises must provide any facility and assistance that is reasonably required by an inspector to conduct an inspection effectively.

(5) Any person who fails to comply with subsections (2) and (4), commits an offence..

Part 2 *Compliance*

Compliance notices

81.(1) Where an inspector is of the opinion that a licensed person or permit holder has

breached the terms and conditions of a licence or permit or has failed to comply with the provisions of this Act, the inspector must issue and serve upon that licensed person or permit holder or any person in control of licensed premises, a compliance notice in the prescribed form.

(2) A compliance notice must stipulate –

- (a) the provisions of this Act or the conditions of the licence which must be complied with;
- (b) the nature and extent of the non-compliance;
- (c) the measures which must be taken to comply;
- (d) the date by which compliance must be completed; and
- (e) the possible consequences of non-compliance, which may include cancellation of the licence or permit.

(3) A compliance notice remains in force until the date for compliance or any extension thereof, or the issue by the inspector of a certificate of compliance, whichever is the earlier.

(4) An inspector may, at the request of the person served with the compliance notice, extend the period of compliance, upon good cause shown, by issuing an amended compliance notice.

(5) If the person served with the compliance notice has complied therewith, the inspector must issue a certificate of compliance.

(6) A person served with a compliance notice may lodge an objection with the inspector in the prescribed manner and state the grounds for the objection.

(7) An inspector receiving an objection in terms of subsection (6) must, within the prescribed period submit the compliance notice, the objection in terms of subsection (6) and any other document which he or she deems relevant, to the Liquor Authority who must determine whether or not the complaint set out in the compliance notice is justified.

(8) In making a determination as contemplated in subsection (7), the procedure as set

out in section 44, read with the necessary changes, must be followed.

(9) The Liquor Authority may –

- (a) if it decides that the complaint set out in the compliance notice is unjustified, set it aside; or
- (b) if it finds the complaint to be justified, order that the compliance notice be complied with by such date as it may determine.

(10) An inspector must after the period stipulated for compliance submit a report on compliance to the Liquor Authority.

(11) If the order referred to in subsection (9)(b) –

- (a) has been complied with, the inspector must issue a certificate of compliance; or
- (b) has not been complied with, the Liquor Authority may forthwith cancel the licence or permit.

(12) In the event that the licensed person or permit holder who is served with the compliance notice has failed to comply with the notice and has not objected to the notice as contemplated in subsection (6) within the prescribed period, the inspector must submit the compliance notice and all relevant documentation to the Liquor Authority for consideration.

(13) If the Liquor Authority makes a finding of non-compliance with the compliance notice, it may cancel the licence or permit.

(14) The Liquor Authority must inform the licence or permit holder in writing of the cancellation of the licence or permit as contemplated in subsection (11)(b) and (13) respectively, and provide reasons for such cancellation.

(15) Proof of non-compliance with a compliance notice at a meeting of the Liquor Authority constitutes *prima facie* proof of the commission of the offences, or transgressions of the licence conditions stipulated in the compliance notice.

(16) Any person who fails to comply with a compliance notice, commits an offence.

Interim order of suspension

82.(1) A magistrate or, if the magistrate is not available, any police officer of or above the rank of warrant officer may, if he or she is of the opinion that a strike or lock-out or public disturbance, disorder, riot or public violence is occurring or threatening at or near any licensed premises or any premises on or place in which liquor may be sold without a licence, in such manner as may appear to him or her in the circumstances or the case to be the most effective, order a holder of the licence or an exempted person concerned, as the case may be, or a manager or agent of that holder or person, to close the premises or place concerned during such times or for such periods as the magistrate or the police officer concerned may think fit.

(2) A holder of a licence or an exempted person, or his or her manager or agent, must, on receipt of an order given under subsection (1), forthwith comply therewith, and, if he or she fails to do so, the person who has given the order may take such steps and use or cause to be used such force as he or she may think necessary to close the premises or place concerned.

(3) Any order given under subsection (1), may at any time be withdrawn –

- (a) by the magistrate or police officer who gave such an order;
- (b) where such an order was given by the magistrate, by any other magistrate of the district concerned;
- (c) where such an order was given by a police officer, by a police officer of more senior rank.

(4) An order granted in terms of subsection (1) must be served upon the licensed person or permit holder as directed by the Liquor Authority and comes into effect upon the date and at the time of service thereof.

(5) An order granted in terms of subsection (1) must stipulate a date upon which the licensed person or permit holder must appear before the Liquor Authority to show cause why the order should not be made final.

(6) A licensed person or permit holder may, prior to the date stipulated in subsection (4) lodge with the Liquor Authority a notice of opposition and must thereafter lodge affidavits setting out the grounds upon which the application is opposed.

(7) A licensed person or permit holder may at any time prior to the date stipulated in terms of subsection (4) apply to the Liquor Authority to set the matter down for hearing on an earlier date.

(8) The Liquor Authority may order the return date to be brought forward to an earlier date.

(9) Upon the date of the hearing of the application the Liquor Authority may discharge the interim order or confirm it, together with an order compelling the licensed person or permit holder to rectify the breach of the terms and conditions or the non-compliance with the Act or the complaint referred to in subsection (1)(b), within the prescribed period.

(10) If a licensed person or permit holder fails to comply with the order contemplated in subsection (9), the Liquor Authority –

- (a) may cancel the licence or permit; and
- (b) must notify the licensed person or permit holder in writing of the cancellation, together with reasons.

(11) A licence or permit which has been suspended in terms of subsection (1) and (9) remains valid in all respects, except that the licensed person or permit holder may not sell or micro-manufacture liquor in terms thereof during the period of suspension.

Effective date of cancellation

83.(1) Cancellation of a licence or permit in terms of sections 81(11)(b) and (13) and in terms of any other provision of this Act, takes effect upon the date of cancellation by the Liquor Authority.

(2) The Chief Executive Officer must amend the register accordingly.

**CHAPTER 9
LAW ENFORCEMENT AND JUDICIAL PROCEEDINGS**

*Part 1
Prohibited and controlled liquids*

Prohibition of sale and micro-manufacture of unhealthy concoctions

84.(1) Subject to the requirements and regulations of the Liquor Act, no person may sell for retail or give to any person or micro-manufacture –

- (a) any concoction manufactured by the fermentation of any substance the consumption of which would, in the opinion of the responsible Member, in consultation with the Member of the Executive Council for Health and the Minister of Trade and Industry, acting in terms of the Liquor Act, be harmful to the health and well-being of the population of the Province, and specified by him or her by notice in the *Gazette*; or
- (b) any drink manufactured by the distillation of any concoction referred to in paragraph (a).

(2) The responsible Member may, subject to consultation processes referred to in subsection (1), withdraw or amend the notice issued in terms of subsection (1).

*Part 2
Offences and penalties*

General offences

85.(1) No person may –

- (a) sell liquor for retail or micro-manufacture liquor in contravention of the terms and conditions of a licence;
- (b) be intoxicated, violent or disorderly on premises in respect of which a licence has been issued;
- (c) if he, she or it is the owner or occupier of licensed premises, allow intoxicated, violent or disorderly behaviour on those premises;
- (d) be intoxicated, violent or disorderly in a public place;

- (e) introduce, possess or consume any liquor on a sports ground that is not a licensed premises, to which the public has or is granted access, irrespective of whether access is granted against payment or is restricted to any category of persons, except on any licensed premises situated on the sports ground concerned;
- (f) misrepresent himself or herself or any other person to be over the age of 18 years in order to persuade a licensed person, or his, her or its agent or employee, to sell or supply liquor to him or her or to that other person;
- (g) in connection with any application, objection, representation, reply to any objection or complaint in terms of this Act, submit or provide any information which he or she knows to be false or misleading or which he or she ought reasonably to have known was not true, or any false document or document which purports to be but is not a true copy of an original document; or
- (h) be in possession of a firearm on premises in respect of which a licence has been issued, except for the owner or manager of the premises or a police officer on duty.

(2) A member of the Liquor Authority, a member of staff, advisor, agent or other person employed by or acting on behalf of the Liquor Authority, commits an offence if he or she directly or indirectly accepts any unauthorised fee or reward from any person in respect of or in connection with any service rendered or anything done or offered by the Liquor Authority.

(3) Any person commits an offence if he or she, in respect of or in connection with any service rendered or anything done or offered by the Liquor Authority, bribes or attempts to bribe, or corruptly influences or attempts to corruptly influence, any member of staff or any adviser, agent or other person employed by or acting on behalf of the Liquor Authority.

(4) Any person who falsely claims that he or she is authorised to charge or collect fees on behalf of or by direction of the Liquor Authority, commits an offence.

(5) Any person who contravenes the provisions of subsection (1), commits an offence.

Offences regarding hearings of Liquor Authority

86. Any person who –

- (a) fails to appear before Liquor Authority on the date and at the time and place when called upon to do so in terms of section 39(4)(a) or (b) without having appointed a person to so appear on his or her behalf;
- (b) appears before the Liquor Authority in terms of section 39(4)(a) or (b) but without the leave of the Chairperson fails to remain in attendance until the conclusion of the hearing or meeting;
- (c) having in terms of section 39(4)(a) or (b) been called upon to appear and give evidence, or to produce any book, plan or other document or article which such person may at the time have in his or her possession, fails or refuses to do so;
- (d) having in terms of section 39(4)(a) or (b) been required to give evidence, refuses to take the oath or make an affirmation; or
- (e) wilfully disrupts a hearing or meeting of the Liquor Authority or wilfully hinders or obstructs the Liquor Authority any member thereof in the performance of, his or her functions,

commits an offence.

Service stations

87.(1) No person may sell liquor in a convenience store franchised to a service station selling petrol, diesel or other petroleum products to the public.

(2) Any person who contravenes the provisions of subsection (1), commits an offence.

Penalties

88.(1) Any person who commits an offence in terms of sections 30(2), 42(10), 45(6), 52(5), 52(6), 55(5), 63(3), 64(2), 65(3), 68(3), 71(4), 72(2), 81(16), 85 or 87 is, on conviction, liable to a fine, or imprisonment not exceeding five years, or to both such fine and such imprisonment.

(2) Any person who commits an offence in terms of sections 79(2), 80(5) or 86 is, on

conviction, liable to a fine, or imprisonment not exceeding one year, or to both such fine and such imprisonment.

(3) In addition to imposing a penalty in terms of subsection (1), a court that has convicted a person of an offence in terms of section 35(2) must order the forfeiture to the State of any liquor seized in terms of section 74(2)(g).

Part 3

Cancellation of licence certificate or permit on conviction

Production of licence certificate or permit in court

89.(1) Any licensed person charged with any offence in terms of this Act must produce the licence certificate or permit issued to him or her, or a certified duplicate thereof issued in terms of this Act if he, she or it is not in possession of the original, to the court at the time of the hearing of a charge.

(2) No person referred to in subsection (1) may, without reasonable excuse, refuse or fail to produce the certificate or permit or duplicate so referred to on request.

Cancellation of licence or permit on conviction of offence

90.(1) Subject to subsection (3), the Liquor Authority must cancel the licence certificate or permit of any person convicted of an offence in terms of this Act.

(2) Where a court has convicted a person of an offence in terms of this Act, the Chief Executive Officer or clerk of the court must inform the Liquor Authority accordingly.

(3) If the Liquor Authority is satisfied that circumstances exist which do not justify the cancellation referred to in subsection (1), it may resolve not to cancel the licence or permit.

(4) For the purposes of this section, cancellation of a licence or permit takes effect on the date on which the licence certificate or permit is cancelled by the Liquor Authority.

(5) When a person's licence certificate or permit has been cancelled in terms of subsection (1), all the rights, benefits and allowances accruing therefrom lapse immediately.

(6) The responsible Member must prescribe, by regulation, the procedure to be followed in terms of this section after a court has convicted a person of an offence in terms of this Act.

CHAPTER 10 GENERAL PROVISIONS

Regulations

91.(1) The responsible Member may make regulations regarding –

(a) the payment and amount of any fees payable in terms of this Act in respect of –

- (i) any application made in terms of this Act;
- (ii) the issue of a licence or permit; and
- (iii) the annual fee payable by a licensed person in respect of each licence issued;

(b) the form of licences, permits, consents, approvals, certificates, determinations, notices, including compliance notices and other documents referred to in this Act;

(c) the manner and form in which, and the days on which, if applicable, any application in terms of this Act may or must be made and lodged;

(d) the manner and form of service, delivery or despatch of any notice or other document required to be served, delivered or despatched in terms of this Act;

(e) the manner and form of publication of any notice or other document required to be published in terms of this Act;

(f) the form, content and size, where applicable, of any notice, communication or other document required to be issued, delivered, served, given or published in terms of this Act;

(g) the content and form of an inspection report or other report or recommendation to be made or given in terms of this Act;

(h) the manner and form in which an objection hearing or a hearing in respect of

a compliance notice in terms of section 86 must be conducted;

(i) time periods, or the extension of time periods, to be prescribed in terms of this Act;

(j) the details of premises in respect of which licensing is sought that must be included in an application for a licence;

(k) the manner and form in which an application for appeal or review to the responsible Member must be made;

(l) the manner in which proceedings and meetings must be conducted by the responsible Member;

(m) the tariff of witness fees payable on appeal or review proceedings;

(n) the form of a certificate issued to an inspector;

(o) the manner and form in which a complaint must be submitted to the Liquor Authority;

(p) the procedure to be followed for the cancellation of a licence or permit on conviction of an offence in terms of section 90;

(q) the manner and form in which an application for temporary amnesty must be made;

(r) any matter which must or may be prescribed in terms of this Act; and

(s) in general, any matter in respect of which the responsible Member deems it necessary or expedient to make regulations in order to achieve the objects of this Act, the generality of this paragraph not being limited by the preceding paragraphs.

(2) A regulation regarding fees or money to be paid must be made in consultation with the Member of the Executive Council responsible for Finance.

(3) In addition to the matters contemplated in subsection (1), the responsible Member may make regulations regarding –

(a) the regulation and restriction on the importation, transshipment, conveyance, transmission, keeping, sale, supply or use of methylated spirits;

(b) the categories of persons who may sell methylated spirits;

(c) the keeping of records or other documents in respect of any dealing in methylated spirit, the form and manner in which the records or other documents must be kept and the particulars to be entered therein;

- (d) the custody and retention of records or other documents contemplated in paragraph (c);
- (e) the denaturation, odourisation, colouring and rendering impotable of methylated spirits sold or kept for sale, and in the manner in which this must be done;
- (f) the quantities of methylated spirits which may be sold on any occasion to any person and the receptacles in which it may be sold; and
- (g) the prohibition or restriction of the purchase or possession of methylated spirits, including the granting of permits for the purchase or possession thereof.

Repeal of laws

92. The laws mentioned in Part A, B and C of Schedule 1 are hereby repealed to the extent indicated in the third column of the said Schedule.

Conversion of licences, approvals, notices and determinations

93.(1) Notwithstanding the provisions of section 31, and in accordance with the transitional provisions of the Liquor Act –

(a) every licence or approval set out in the first column of Schedule 2 and in force immediately before the date of commencement of this Act, is from the commencement date of this Act regarded as a licence in the category set out in the second column of Schedule 2: Provided that –

- (i) the terms and conditions and trading days and trading hours applicable to such licence, immediately prior to this Act coming into effect, continue in force until the date upon which such licence is required to be renewed in terms of the Liquor Act, 1989 (Act No. 27 of 1989);
- (ii) the said terms and conditions and trading days and trading hours are not inconsistent with the provisions of this Act; and
- (iii) in the event that the said terms and conditions or trading days and trading hours are inconsistent with the provisions of this Act, then the provisions of this Act are applicable;

(b) a notice issued in terms of section 33 of the Liquor Act, 1989 (Act No. 27 of 1989), and in force immediately before the date of commencement of this Act,

are regarded as conditions set out in writing in terms of section 46 and 55 of this Act; and

(c) any determination made in terms of section 51 of the Liquor Act, 1989 (Act No. 27 of 1989), and in force immediately before the date of commencement of this Act, is regarded as a consent granted in terms of section 64(1) of this Act.

(2)(a) The holders of the licences, approvals, notices and determinations referred to in subsection (1) are entitled to a licence certificate or permit in terms of section 54 of this Act for the relevant category of licence as contemplated in section 31, without having to comply with the application procedure for such a licence or permit contemplated in Chapter 6.

(b) All existing terms and conditions and trading hours applicable to such licences, approvals, notices and determinations must be endorsed on the licence certificate in accordance with subsection (1).

(3)(a) The holders of the licences, approvals, notices and determinations referred to in subsection (1) must receive such licence certificate or permit upon presentation to the Liquor Authority of proof of their licences, approvals, notices and determinations referred to in subsection (1) and the terms and conditions and trading hours to which such licences, approvals, notices and determinations are subject, and upon payment of the annual fee prescribed in terms of section 56.

(b) The holders of the licences, approvals, notices and determinations referred to in subsection (1) must obtain their licence certificates or permits under this Act within three years of the commencement of this Act.

(4) In the event that a holder does not convert the licences, approvals, notices and determinations within the prescribed period referred to in subsection (3)(b), such licences, approvals, notices and determinations become invalid, as provided for in the transitional provisions of the Liquor Act.

(5) In accordance with item 7 of Schedule 1 to the Liquor Act, any application for a liquor licence made under the Liquor Act, 1989 (Act No. 27 of 1989), before the date of the repeal of that Act and not disposed of prior to that date, must be disposed of in terms of that Act, despite its repeal.

Temporary amnesty for unlicensed retail sellers of liquor and unlicensed micro-manufacturers of liquor

94.(1) Any person who at the commencement of this Act engages in the retail sale of liquor or the micro-manufacture of liquor without a valid licence must within 12 months after such commencement, apply in the manner prescribed to the Liquor Authority for a temporary amnesty: Provided that –

- (a) the application referred to in subsection (1), complies with the formal requirements;
- (b) the person has traded without a liquor licence at the date of the commencement of this Act;
- (c) the proposed licensed premises are located in an area that –
 - (i) was designated as a non-white area in terms of the Black Communities Development Act, 1984 (Act No. 4 of 1984), the Group Areas Act, 1950 (Act No. 41 of 1950), or any other relevant legislation; or
 - (ii) is subject to the Less Formal Township Establishment Act, 1991 (Act No. 113 of 1991);
- (d) the person is a member of a community to which the Acts referred to in paragraph (c) applied;
- (e) the person resides upon the erf concerned;
- (f) the dominant use of the premises concerned is residential;
- (g) the person was previously disadvantaged due to the Acts referred to in paragraph (c);
- (h) the person does not have the necessary approval from the municipality to use the premises concerned for the purpose to be authorised by the licence; and
- (i) there is nothing else that would preclude the granting of a licence to that person.

(2) The amnesty period commences on the date of commencement of this Act and lapses 24 months thereafter.

(3) Notwithstanding the provisions of subsection (2), the application referred to in subsection (1) must be made within six months from the date of commencement of this Act.

(4) The Chief Executive Officer must maintain a record in the prescribed manner of each application referred to in subsection (1).

(5) When considering an application for a temporary amnesty, the Liquor Authority may determine terms and conditions, and trading days and trading hours in respect of that application.

(6) If the application referred to in subsection (1) is granted, the Chief Executive Officer must forthwith issue a written temporary amnesty notice to the applicant in respect of a category of licence referred to in section 31, setting forth the prescribed information.

(7) Should a person contemplated in subsection (1) not apply for a temporary amnesty within the six month period referred to in subsection (3) –

- (a) that person must be prosecuted in terms of this Act; and
- (b) the failure to apply for a temporary amnesty may be regarded as an aggravating factor should that person be convicted of an offence in terms of section 30(2) of this Act.

(8) The holder of a temporary amnesty notice must apply for a licence in terms of this Act before the expiry of the period of amnesty.

Transitional arrangements and validation

95.(1) The Liquor Authority is the legal successor to the Liquor Board.

(2) Notwithstanding anything to the contrary contained in this Act, on the date on which this Act comes into operation, any lawful act, determination, designation, decision, matter or any other thing done, made, taken, executed or carried out or purported to have been done, made, taken, executed or carried out by the Liquor Board or a member

of staff of the Liquor Board, including a member of the Liquor Board or the Chief Executive Officer of the Liquor Board, or the responsible Member, in pursuance of the Liquor Act, is regarded to have been done, made, taken, executed or carried out or issued under this Act;

(3) Any person who, on the day before the date of commencement of this Act, was a member of the Liquor Board continues as a member of the Liquor Authority until the responsible Member has appointed new members of the Liquor Authority in terms of section 8 of this Act.

(4) Any application for a liquor licence made before the commencement of this Act in terms of the repealed Liquor Act, 1989 (Act No. 27 of 1989), and the Regulations made in terms of that Act, must be dispensed of and finalised as if this Act has not come into operation.

(5) A person who, on the day before the date of commencement of this Act, was a member of staff of the Liquor Board, is regarded as having been appointed in terms of section 21 of this Act.

Short title and commencement

96.(1) This Act is called the North West Liquor Licensing Act, 2016, and comes into operation on a date to be determined by the responsible Member, by notice in the *Gazette*.

(2) The responsible Member may determine different dates for the coming into operation of different sections of this Act.

SCHEDULE 1**Repeal of laws***(Section 92)***PART A: NATIONAL LEGISLATION WITHIN THE FUNCTIONAL AREA OF
EXCLUSIVE PROVINCIAL LEGISLATIVE COMPETENCE IN TERMS OF
SCHEDULE 5 TO THE CONSTITUTION**

No. and year of law	Short Title	Extent of repeal
Act No. 27 of 1989	Liquor Act, 1989	Sections 5, 6, 6A, 7 to 32, 32A, 33 to 74, 78, 82, 84 to 123, 128, 156, 160 to 162, 165, 166, 169, 170, 173 to 175, 177 to 181, 184 to 186 and 189, but – (a) only to the extent that such provisions relate to the micro-manufacture, retail sale or consumption of liquor or methylated spirits; and (b) provided that the repeal of the said provisions come into effect only upon the date declared by the Minister responsible for liquor matters in the national sphere of government, in the <i>Government Gazette</i> , in accordance with item 2 of Schedule 1 (Transitional Provisions) to the Liquor Act, 2003 (Act No. 59 of 2003)
Act No. 57 of 1995	Liquor Amendment Act, 1995	Section 54

**PART B: REGULATIONS MADE IN TERMS OF SECTION 182 OF THE LIQUOR ACT,
1989 (ACT NO. 27 OF 1989)**

No. and year of law	Short title	Extent of repeal
Regulation No. 1405 of 1992	Regulations in terms of section 182 of the Liquor Act, 1989 (Act No. 27 of 1989)	The whole, but – (a) only to the extent that such provisions relate to the micro-manufacture, retail sale or consumption of liquor or methylated spirits; and (b) provided that the repeal of the said provisions come into effect only upon the date declared by the Minister responsible for liquor matters in the national sphere of government, in the <i>Government Gazette</i> , in accordance with item 2 of Schedule 1 (Transitional Provisions) to the Liquor Act, 2003 (Act No. 59 of 2003)

SCHEDULE 2**Conversion of licences, approvals, notices and determinations**
(Section 93)

Category/ type of licence or approval in force immediately before the date of commencement of this Act	Category of licence deemed to be in force from the date of commencement of this Act, subject to section 98(4)
An exemption referred to in section 4(1) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section 36(a)(ii) or (vii) of this Act
A hotel liquor licence referred to in section 20(a)(i) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section 36(a)(i) of this Act
A restaurant liquor licence referred to in section 20(a)(ii) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section 36(a)(ii) of this Act
A wine-house licence referred to in section 20(a)(iii) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section 36(a)(vii) of this Act
A theatre liquor licence referred to in section 20(a)(iv) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section 36(a)(ix) of this Act
A club liquor licence referred to in section 20(a)(v) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section 36(a)(iii) of this Act
A sorghum beer licence referred to in section 20(a)(vi) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section 36(a)(vii) or (viii) of this Act
A special licence referred to in section 20(a)(vii) of the Liquor Act, 1989	A licence for the retail sale of liquor in a category referred to in section 36(a) most similar to that category of this Act
A temporary liquor licence referred to in section 20(a)(viii) of the Liquor Act, 1989	A special events permit referred to in section 36(c) of this Act
An occasional licence referred to in section 20(a)(ix) of the Liquor Act, 1989	A special events permit referred to in section 36(c) of this Act
A brewer's licence referred to in section 20(b)(ii) of the Liquor Act, 1989	A licence for the micro-manufacture, of liquor referred to in section 36(d) of this Act, if applicable
A liquor store licence referred to in section 20(b)(iii) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section 36(b)(i) of this Act
A grocer's wine licence referred to in section 20(b)(iv) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section 36(b)(ii) of this Act
A wine farmer's licence referred to in section 20(b)(v) of the Liquor Act, 1989	A licence for the micro-manufacture of liquor referred to in section 36(d) of this Act

Category/ type of licence or approval in force immediately before the date of commencement of this Act	Category of licence deemed to be in force from the date of commencement of this Act, subject to section 98(4)
A sorghum beer brewer's licence referred to in section 20(b)(vi) of the Liquor Act, 1989	A licence for the micro-manufacture of liquor referred to in section 36(d)
A special licence referred to in section 20(b)(viii) of the Liquor Act, 1989	A licence for the retail sale of liquor in a category referred to in section 36(b) of this Act most similar to that category
A producer's licence referred to in section 20(b)(ix) of the Liquor Act, 1989	A licence for the micro-manufacture, including wholesale supply, of liquor referred to in section 36(d) of this Act, if applicable
An approval granted in terms of section 60 of the Liquor Act, 1989, to a holder of a wine-house licence	A licence for the retail sale of liquor referred to in section 36(b)(i) of this Act
A sports ground liquor licence referred to in section 189 of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section 36(a)(vi) of this Act
A special licence (Tavern) referred to in section 20(a)(vii) of the Liquor Act, 1989	A licence for the retail sale of liquor referred to in section 36(a)(viii) of this Act

SCHEDULE 3**Trading days and trading hours**
(Section 61)

CATEGORY A: ON-CONSUMPTION	TRADING HOURS	TRADING DAYS
1. Accommodation	10h00 – 00h00	Every day
2. Restaurant	10h00 – 00h00	Every day
3. Club	10h00 – 00h00	Every day
4. Nightclub	10h00 – 00h00	Every day
5. Gaming premises	10h00 – 00h00	Every day
6. Sports ground	10h00 – 00h00	Any day
7. Pub	10h00 – 00h00	Every day
8. Tavern	10h00 – 00h00	Every day
9. Theatre	10h00 – 00h00	Every day
CATEGORY B: OFF-CONSUMPTION	TRADING HOURS	TRADING DAYS
1. Liquor store	08h00 – 20h00	Monday – Saturday Closed on Sundays and Public Holidays
2. Grocer's wine	08h00 – 17h00	Monday – Saturday Closed on Sundays and Public Holidays
CATEGORY C: SPECIAL EVENTS PERMIT	TRADING HOURS	TRADING DAYS
Special events permit	Starting of event – Closing of event	Any day
CATEGORY D: MICRO-MANUFACTURER	TRADING HOURS	TRADING DAYS
Micro-manufacturer	07h00 – 18h00	Every day

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