



PROVINCE OF THE EASTERN CAPE
IPHONDO LEMPUMA KOLONI
PROVINSIE OOS-KAAP

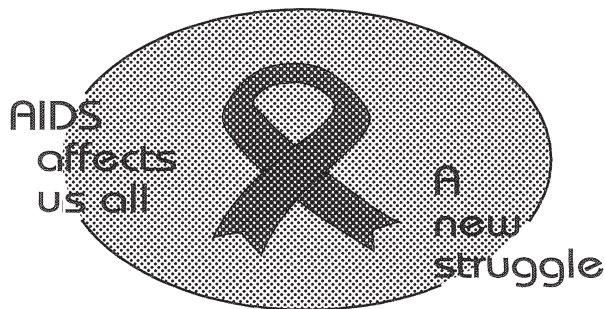
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DEPARTMENT OF HEALTH

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from Government Printing Works

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5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
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8. All re-submissions by customers will be subject to the above cut-off times.
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10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address submit.egazette@gpw.gov.za.

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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS**PROVINCIAL NOTICE 70 OF 2015****EASTERN CAPE LIQUOR AMENDMENT BILL, 2015**

I, Hon S Somyo, the Member of Executive Council of Economic Development, Environmental Affairs and Tourism Eastern Cape hereby, in terms of Rule 147 of the Standing Rules of Legislature, publish for public comment the Eastern Cape Liquor Amendment Bill, 2015.

Any person who wishes to comment on the said Bill must submit such comments in **writing** within 14 days of publication hereof.

Comments must be submitted to –

Head of Department, Economic Development, Environmental Affairs and Tourism
Private Bag X0054
Bhisho
5601

OR

Hand Deliver to:

2nd Floor, Beacon Hill
Cnr of Hargreaves & Hockley Close
King Williams Town
Attention: Ms Ronel de Bruin, Tel: 043 605 7114



HON. SAKHUMZI SOMYO

MEC OF ECONOMIC DEVELOPMENT ENVIROMENTAL AFFAIRS AND TOURSIM

DATE...02/06/2015

PROVINCE OF THE EASTERN CAPE

EASTERN CAPE LIQUOR BILL, 2014

(As introduced)

**(BY THE MEC OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENTAL
AFFAIRS AND TOURISM)**

BILL

To provide for the establishment of the Eastern Cape Liquor Authority, the Eastern Cape Liquor Board and an appeal structure and to confer powers, functions and duties upon that Authority; to provide for the management thereof by a Board and the appointment of members thereof; to provide for the MEC's power to make regulations; to clearly define the process of application for licence and matters connected thereto; to provide for the control of the retail sale, supply of liquor and micro manufacturing within the Eastern Cape Province; to regulate applications for licences and to provide for public notification and participation, to regulate the granting of licences in respect of different kinds and categories of licences; to prohibit the sale of liquor to certain categories of persons; to provide for enforcement procedures; to provide for transitional arrangements; and to provide for matters incidental thereto.

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CHAPTER 1
DEFINITIONS, OBJECTS AND APPLICATION OF ACT

1 Definitions

(1) In this Act, unless the context otherwise indicates-

"Appeal Tribunal" means the Eastern Cape Appeal Tribunal established in terms of section 74;

"Authority" means the Eastern Cape Liquor Authority established under section 9;

"beer" means –

- (a) a drink manufactured by the fermentation of a mash of malt, with or without cereals and flavored with hops;
- (b) ale or stout; or
- (c) any substance or other fermented drink;
- (d) manufactured as or sold under the name of beer, ale or stout; or
- (e) declared to be beer under subsection 42(2)(a) of the National Act by the Minister, if it contains more than one per cent by volume of alcohol, but does not include traditional African beer;

"Board" means the Eastern Cape Liquor Board referred to in section 13;

"chairperson" means the person appointed or designated in terms of section 21 of the Act or such person appointed temporarily to act as such in his or her absence;

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

"court" means a competent court that has jurisdiction;

“Department” means the department responsible for regulating liquor and related matters in the Province;

“disorderly” means violating the rules of good order and behavior;

“distribute” means transportation of liquor products by a licensed person from a manufacturer to a storage facility or from a storage facility to a retailer in exchange for money or as a business;

“Eastern Cape Liquor Authority” means the organ of state established by section 9 of this Act;

“inspector” means an inspector appointed or designated in terms of section 85(1);

“intoxicated” means the condition a person is in when his or her capabilities are so impaired by liquor that he or she is likely to cause injury to himself or herself or be a danger or nuisance or disturbance to others;

“judicial officer” means a judge or an acting judge or a magistrate or an acting magistrate;

“Legislature” means the Legislature of the Province of the Eastern Cape as constituted;

“licence” means a liquor licence issued in terms of this Act;

“licence holder” means a person to whom a licence has been issued or who is deemed to be a licence holder in terms of this Act;

“licensed premises” means premises in respect of which a license has been issued and includes any place, land or any part of land, building or part thereof or conveyance, which is mainly used for the conveyance of tourists;

“liquor” means –

- (a) a liquor product as defined in section 1 of the Liquor Products Act, 1989;
- (b) beer or traditional African beer; or
- (c) any other substance or drink declared to be liquor under section 42(2)(a) of the National Act;

“liquor product” means

- (a) any liquor product as defined in section 1 of the Liquor Products Act, 1989;
- (b) any beer, cider or sorghum;
- (c) any other substance or drink declared to be liquor by the Minister under the National Act,

and excludes medicine which is subject to registration in terms of the Medicines and Related Substances Act, 1965 (Act 101 of 1965);

"Liquor Products Act, 1989" means the Liquor Products Act, 1989 (Act No. 60 of 1989);

"manufacture" means to produce or bottle liquor or methylated spirits for the purpose or with the intent of selling it;

"methylated spirit" means-

- (a) spirit denatured in accordance with any law on the denaturation or methylation of spirit;
- (b) any other denatured, medicated, perfumed or otherwise treated spirit declared to be methylated spirit by the Minister under the National Act;

"MEC" means the member of the Executive Council of the Province, to whom the Premier has assigned the responsibility for regulating liquor and related matters;

"micro-manufacturer" means a person licensed as such in terms of this Act to manufacture liquor at or below the prescribed threshold volume, and includes micro-manufacturing of African traditional beer and methylated spirits;

"Minister" means the member responsible for regulating liquor and related matters in the National Cabinet;

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

"municipality" means a municipality as envisaged in section 155(1) of the Constitution;

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

"organ of state" means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa;

"person" means a person defined in section 1 of the Interpretation Act, 1957 (Act No. 33 of 1957) and includes a trust;

"Premier" means the Premier of the Province;

"premises" includes any place, land or any part of land, building or part thereof or conveyance;

"prescribe" means prescribe by regulation;

"Province" means the Province of the Eastern Cape established by section 103 of the Constitution;

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

"regulation" means a regulation made under this Act;

"retailer" means any person licensed to sell liquor or make liquor available for sale, for the purpose of consumption;

"rule" means a rule made by the Authority in terms of section 121;

"sell" includes exchange, offer, display, deliver, supply or dispose of for sale, or authorise, direct or allow a sale;

"South African citizen" means a South African citizen in terms of the South African Citizenship Act, 1995 (Act No. 80 of 1995);

"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.

"this Act" includes any regulation, notice or rule made or issued under this Act;

2 Object of Act

The object of this Act is to give effect to the constitutional mandate of the Province regarding liquor licences by creating a regulatory and operational framework and an enabling environment for the implementation and management of that mandate.

3 Application of Act and conflict with other laws

(1) 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 as such;
- (b) an administrator of a deceased or insolvent estate, in the administration of that estate;
- (c) sheriff or any other officer acting in terms of an order of a court, judge or magistrate, in the performance of his or her functions as such;
- (d) the master of a ship or 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 board that ship while in a harbour in, or in the territorial waters of, the Republic during a voyage of not less than 100 kilometres, or to a passenger on board that aircraft while on a flight of not less than 100 kilometres from one airport in the Republic to another;
- (e) a person referred to in a notice under section 10 of the Liquor Products Act, 1989, with regard to the sale of any sacramental beverage under such a notice;
- (f) a person, with regard to the sale of any spirituous or distilled perfumery or medicated spirit, which perfumery or spirit is not methylated spirit; and
- (g) the manufacturer of sweets containing more than two per cent by mass of alcohol and manufactured in the Republic, with regard to the sale of those sweets to a licensed person.

(2) If there is any conflict relating to a matter dealt with in this Act and the provisions of any other law, save for the Constitution or any Act amending this Act, the provisions of this Act prevail.

CHAPTER 2

DEPARTMENTAL MONITORING AND EXECUTIVE AUTHORITY

4 Provincial executive authority

(1) The MEC is the executive authority for the Authority as contemplated in the Public Finance Management Act.

(2) The MEC -

- (a) must appoint the members of the Board as contemplated in section 14 and determine their remuneration in consultation with the Member of the Executive Council responsible for Finance;
- (b) must establish the secretariat to provide the administrative support for the Appeal Tribunal;
- (c) must appoint the members of the Appeal Tribunal as contemplated in section 74 and determine their remuneration in consultation with the Member of the Executive Council responsible for Finance;
- (d) must establish and maintain clear channels of communication between him or her and the Authority ;
- (e) must monitor and annually review the performance of the Authority ;
- (f) must, every third year calculated from the date of commencement of this Act, facilitate the review of the Authority's performance in relation to its objectives, by an external evaluation panel, appointed in a manner ensuring transparency and openness and drawn from the public and the private sector and comprising at least -
 - (i) of persons with sound knowledge of and experience in liquor trading and regulation; and
 - (ii) a person with sound knowledge and experience in public entity management;
- (g) may issue directives to the Authority to ensure that it operates effectively, economically and efficiently in achieving the strategic objectives of provincial government; and
- (h) if the performance of the Authority is found lacking after a review contemplated in paragraph (e) or (f), may, notwithstanding the provisions of this Act, intervene by providing the necessary assistance to the Authority subject to such conditions as he or she considers necessary.

5 Provincial guidelines

(1) The MEC may issue guidelines on matters applicable to the regulation of liquor, which are consistent with national and provincial policy, the objects of this Act and related legislation in relation to -

- (a) the promotion of service provision by the Authority; and
- (b) any other matter which may be necessary for the application of this Act or related legislation.

(2) The Authority, in exercising its powers and performing its duties in terms of this Act, must consider the guidelines issued by the MEC in terms of subsection (1).

6 Investigation and exercise and performance of Departmental power and duty

(1) The MEC may, at any time, –

- (a) in consultation with the Authority, request the Authority to investigate any matter pertaining to liquor regulation and trading as he or she considers necessary;
- (b) in consultation with the Authority, request the Authority to exercise or perform a power or duty of the Department or other organs of state pertaining to liquor regulation on behalf of the Department or organ of state; or
- (c) investigate the affairs or financial position of the Authority.

(2) Any reasonable cost incurred by the –

- (a) Authority as a result of an investigation or the exercise or performance of a power or a duty contemplated in subsection (1)(a) or (b) may be recovered from the Department;
- (b) Department as a result of an investigation contemplated in subsection (1)(c) may be recovered from the Authority.

7 Regulations

(1) The MEC may, by notice in the *Provincial Gazette*, make regulations not inconsistent with this Act regarding-

- (a) any matter that is required or permitted to be prescribed in terms of this Act;
- (b) a code of conduct for members of the Board;
- (c) the empowerment of new entrants into the industry in respect of retail trade;
- (d) the appeal procedure for an appeal to the Appeal Tribunal;
- (e) the payment of fees in respect of-
 - (i) any application made in terms of this Act;
 - (ii) licences; and
 - (iii) annual renewal; and
- (f) generally, all matters which are reasonably necessary or expedient to be prescribed in order to achieve the objects of this Act.

(2) Before the MEC makes any regulation under this section that materially or adversely affects any person, he or she must publish a draft of the proposed regulation in the *Provincial Gazette* together with a notice calling on interested persons to comment, in writing, within a period stated in the notice, which period may not be less than 14 days from the date of publication of the notice.

(3) If the MEC alters the draft regulations, as a result of any comment received, he or she need not publish those alterations before making the regulations.

(4) A regulation made under this Act may provide that a person who contravenes or fails to comply with a provision thereof must be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(5) A regulation regarding any fees must be made in consultation with the MEC responsible for provincial expenditure.

8 Delegation by MEC

The MEC may delegate any of his or her powers in terms of this Act, excluding the power to make regulations and the power to appoint the members of the Board, to any official of the Department.

CHAPTER 3

ESTABLISHMENT, OBJECTIVES AND POWERS AND DUTIES OF AUTHORITY

9 Establishment of Eastern Cape Liquor Authority

(1) The Eastern Cape Liquor Authority is hereby established as a juristic person capable of suing and being sued in its own name which must exercise and perform the powers, functions and duties assigned to it in this Act or any other law.

(2) The Authority is a provincial public entity subject to the provisions of the Public Finance Management Act.

10 Objectives of Authority

- (1) The objectives of the Authority are to -
- (a) regulate retail sale and micro manufacturing of liquor in the province;
 - (b) to monitor and enforce compliance with the Act;
 - (c) encourage and support the transformation of the liquor industry;
 - (d) implement mitigating measures to control the adverse effects associated with abuse of alcohol.

- (2) In pursuing its objects the Authority must, amongst others –
- (a) maintain a system of internal policies, planning and decision making which integrate the objectives and functions relating to the regulation of liquor and in accordance with the national and provincial strategic objectives;
 - (b) facilitate strategic leadership to control the adverse effects associated with abuse of alcohol through the development of the necessary strategic perspectives;
 - (c) ensure intergovernmental coordination and focused financial and human resource utilisation;
 - (d) promote socio-economic growth and transformation within the liquor industry, thereby creating economic opportunities for previously disadvantaged individuals and local communities in the Province;
 - (e) adhere to the good corporate governance principles and resource management requirements contemplated in this Act, the Public Finance Management Act and other applicable laws.

11 Powers and duties of Authority

- (1) The Authority must –
- (a) develop and maintain a licensing system for liquor licences;
 - (b) decide applications for liquor licences;
 - (c) develop and maintain a database of all applications received by it;
 - (d) establish and maintain an inspectorate for purposes of monitoring and compliance;
 - (e) develop and maintain appropriate research and information management systems;
 - (f) implement and manage programmes and the fund referred to in section 38 with regard to the adverse effects associated with abuse of alcohol;
 - (g) participate in initiatives and strategies of the Department and other organs of state;
 - (h) identify development opportunities and implement appropriate initiatives and programmes to exploit them;
 - (i) determine the staff establishment of the Authority and appoint the executive management and other employees as contemplated in section 27;
 - (j) obtain, by agreement, the services of any person, including any organ of state, for the performance of any specific act, task or assignment;
 - (k) acquire or dispose of any right in or to immovable property subject to the approval of the MEC, or acquire or dispose of any right in or to movable property and hire or let any property;
 - (l) open and operate a bank account;
 - (m) invest any funds of the Authority, subject to the Public Finance Management Act;
 - (n) borrow money, subject to the Public Finance Management Act;

- (o) charge application and other fees for any type of licence;
- (p) insure against-
 - (i) any loss, damage or risk; or
 - (ii) any liability it may incur in the application of this Act;
- (q) insure members of the Board and staff members in respect of bodily injury, disablement or death resulting solely and directly from an accident occurring in the course of the performance of their duties; and
- (r) exercise any other power and must perform any other duty conferred or imposed on it in terms of this Act.

12 Powers and Responsibilities of Board

(1) The Authority is managed by the Board and the Board must-

- (a) determine rules required in terms of this Act as contemplated in section 119;
- (b) consider the recommendations made by the licensing committee in terms of section 38 and approve or refuse applications and renewal applications;
- (c) consider reports submitted to it by inspectors;
- (d) determine the terms of reference for an *ad hoc* committee and any of the permanent committees established in terms of this Act if the Act does not contain such terms of reference; and
- (e) delegate or assign the necessary powers and duties to an *ad hoc* or permanent committee.

(2) The Board must function in a transparent, fair and open manner.

(3) The Board may furnish a report or recommendation to the MEC on any matter arising from the application of this Act.

(4) The Board may do all that is necessary or expedient to carry out its functions, including, instituting, conducting and defending civil proceedings in any matters relating to its functions.

CHAPTER 4

GENERAL GOVERNANCE OF AUTHORITY

13 Role of Board

(1) The Authority is managed by a Board that -

- (a) gives strategic direction to the Authority ;
- (b) is responsible for the performance of the Authority;
- (c) is the accounting authority of the Authority as contemplated in section 49(2) (a) of the Public Finance Management Act;
- (d) is accountable to the MEC for the performance of the Authority; and
- (e) is supported by a chief executive officer and other employees.

- (2) The Authority communicates with the MEC through the chairperson of the Board.

14 Constitution of Board

- (1) The Board consists of:
- (a) five members appointed by the MEC from applications and nominations received as contemplated in section 15 of whom at least –
 - (i) one person who is admitted as an Attorney or Advocate with at least five years' experience in the legal profession or the administration of justice;
 - (ii) one person who has a tertiary qualification and experience in the field of welfare, socio-economic development, social services or health;
 - (iii) one person who has financial knowledge and expertise;
 - (iv) one person nominated by the public in response to the nominations called for by the MEC in terms of section 15;
 - (v) one person who has appropriate knowledge of or experience in systems and processes for ensuring proper accountability, probity and openness in the conduct of the business of an organisation;
 - (b) an official employed by the Department and appointed by the MEC as an *ex officio* member;
 - (c) an official employed by the Eastern Cape Provincial Treasury and appointed by the MEC as an *ex officio* member; and
 - (d) the chief executive officer of the Authority who serves as an *ex officio* member.
- (2) The members of the Board are non-executive members.
- (3) The Board must be broadly representative of the population of the Province.

15 Nomination procedure

(1) The MEC must, at least 90 days before the expiry of every term of office of the members of the Board, invite applications or nominations for persons to be appointed to the ensuing term of office of the Board by notice in the *Gazette* and an advertisement in a leading newspaper in the Province.

(2) The invitation for applications or nominations referred to in subsection (1) must provide for the applications or nominations to be submitted within 30 days from the date of the invitation or the date of publication of the notice.

(3) Any application or nomination made pursuant to a notice or an advertisement in terms of subsection (1) must be made in the form determined by the MEC and accompanied by-

- (a) the personal details of the applicant or nominee;
- (b) particulars of the applicant's or nominee's qualifications or experience in the matters listed in section 14(1);

- (c) in the case of a nomination, a letter of acceptance of nomination by the nominee;
- (d) a sworn declaration by the applicant or nominee that he or she is not disqualified in terms of section 16;
- (e) a disclosure of the information contemplated in section 20; and
- (f) permission by the applicant or nominee to verify the information provided by him or her.

(4) The MEC must, within 30 days from the expiry date specified in the notice and the advertisement, evaluate the applications and nominations received by him or her and appoint the members of the Board for the ensuing term of office of the Board.

(5) When evaluating the nominations the MEC must take into consideration—

- (a) the applicant's or nominee's knowledge and experience of the matters referred to in section 14(1);
- (b) the need for appointing persons disadvantaged by unfair discrimination;
- (c) the geographic spread in the Province;
- (d) the need to ensure that the Board is composed of persons covering a broad range of appropriate experience and expertise; and
- (e) the Authority's objectives.

(6) If insufficient, unsuitable or no applications and nominations are received within the period specified in the invitations or the notice the MEC may appoint to the Board the required number of persons who, but for the fact that they did not apply or were not nominated in terms of the procedure contemplated in this section, qualify to be appointed in terms of this Act.

(7) The MEC must, as soon as practicable after the appointment of the members of the Board, publish by notice in the *Gazette*—

- (a) the name of every person appointed;
- (b) the date from which the appointment takes effect; and
- (c) the term of office referred to in section 22.

16 Disqualification from appointment to or remaining as member of Board

A person is disqualified from being appointed or remaining a member of the Board if that person—

- (a) is or becomes a Member of the National Assembly or National Council of Provinces, any provincial legislature, municipality or is in the full-time employ of an organ of state with the exception of the representatives of the Department and the Provincial Treasury contemplated in section 14(1);
- (b) is not a South African citizen or a permanent resident who is ordinarily resident in the Republic;

- (c) is or becomes subject to a final order of court whereby his or her estate is sequestrated under the Insolvency Act, 1936 (Act No. 24 of 1936), or if his or her estate is sequestrated in terms of the laws of any other country or territory by a competent court or Authority of such country or territory, or if he or she has assigned his or her estate for the benefit of his or her creditors;
- (d) is declared by the High Court to be of unsound mind or suffers a mental illness or has a severe or profound intellectual disability as contemplated in the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (e) has been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, or any offence involving dishonesty or of any offence in terms of the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), the Corruption Act, 1992 (Act No. 94 of 1992), Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, or the Companies Act, 2008 (Act No. 71 of 2008), or of contravening this Act, irrespective of whether such imprisonment was wholly or partly suspended or not;
- (f) has been convicted of an offence, other than an offence contemplated in paragraph (e) and sentenced to imprisonment without the option of a fine for a period of not less than three months, irrespective of whether such imprisonment was wholly or partly suspended or not;
- (g) without authorisation discloses or improperly acts on information gained as a result of his or her membership of the Board; or
- (h) has or acquires or obtains a direct or personal interest in the liquor industry or fails to disclose an interest as contemplated in section 20.

17 Resignation of member and vacation of office

(1) A Member of the Board may at any time resign from the Board upon one month's written notice tendered to the chairperson who must immediately inform the MEC, the Board and the chief executive officer accordingly.

(2) A member of the Board who resigns as contemplated in subsection (1) must vacate his or her office at the end of the notice period contemplated therein.

(3) A member of the Board ceases to be a member and must vacate his or her office with immediate effect if he or she-

- (a) is no longer eligible in terms of section 16 to be a member; or
- (b) is removed from office by the MEC in terms of section 18.

18 Removal of member of Board, dissolution of Board and appointment of interim Board

(1) The MEC may, after due inquiry, or on recommendation of the Board after due enquiry, remove, with immediate effect, a member of the Board from office on account of any or all of the following:

- (a) misconduct;
- (b) inability to perform the duties of his or her office efficiently; and
- (c) absence from three consecutive meetings of the Board without the permission of the Board, except on good cause shown; and
- (d) failure to disclose a direct or personal interest in the liquor industry or an interest in terms of section 20 or voting or attendance at, or participation in, proceedings of the Board while having an interest contemplated in section 16(h) or 20.

(2) The MEC may, after due inquiry, dissolve the Board with immediate effect, if it fails in any or all of the following:

- (a) achieving its objectives in terms of this Act; and
- (b) carrying out its duties.

(3) Upon the dissolution of the Board contemplated in subsection (2), the MEC must appoint an interim Board consisting of no more than five members and he or she does not have to follow the nomination and appointment procedure contemplated in section 15.

(4) The MEC must appoint the interim Board within 30 days after the dissolution of the Board and the term of office of the interim Board is a period not exceeding six months.

(5) The MEC must appoint the chairperson and deputy chairperson of the interim Board.

(6) The provisions of this Act regarding the Board apply to the interim Board.

19 Appointment of member to vacant seat

(1) When a seat on the Board becomes vacant as a result of any action referred to in section 18, or if a Board member dies before the expiration of his or her term of office the Board must, as soon as is practicable after the seat becomes vacant notify the MEC that the seat has become vacant.

(2) The MEC must, as soon as is practicable after the receipt of the notification from the Board -

- (a) in an open and transparent manner, invite applications or nominations for a person to be appointed to the vacant seat;
- (b) evaluate the applications and nominations received; and
- (c) appoint a nominee or candidate to the vacant seat.

(3) If insufficient, unsuitable or no nominations are received as contemplated in subsection (2)(b), the MEC may appoint to the vacant seat on the Board any person who, but for the fact that he or she was not nominated or did not apply in terms of the procedure contemplated in subsection (2), qualify to be appointed in terms of this Act.

(4) The MEC must, as soon as practicable after the appointment of the member to the vacant seat on the Board, publish by notice in the *Gazette* -

- (a) the name of the person appointed;
- (b) the date from which the appointment takes effect; and
- (c) the period for which the appointment is made as contemplated in subsection (5).

(5) The person who is appointed to the vacant seat on the Board fills the vacancy for the unexpired portion of the period of office of the vacating member.

20 Disclosure of interest

(1) A person may be appointed to and remain a member of the Board if his or her spouse, partner or associate, holds an office in or is employed by any company, organisation or other body, whether corporate or incorporate, which has a direct or indirect financial interest in the liquor industry provided that such a person discloses the interest and the nature of the interest.

(2) If, at any stage during the course of any proceedings before the Board, it appears that any Board member has or may have an interest contemplated in subsection (2) which may cause a conflict of interest -

- (a) that Board member must forthwith fully disclose the nature of his or her interest and leave the meeting so as to enable the remaining Board members to discuss the matter and determine whether that Board member is precluded from participating in that meeting by reason of a conflict of interest; and
- (b) the disclosure of interest by that member and the decision taken by the remaining Board members regarding the matter, must be recorded in the minutes of the meeting in question.

(3) If any Board member fails to disclose any interest as required by subsection (2) or, subject to the provisions of that subsection, if he or she is present at the venue where a meeting of the Board is held or in any manner whatsoever participates in the proceedings of the Board, the relevant proceedings of the Board will be null and void.

21 Chairperson and deputy chairperson

(1) The MEC must appoint a chairperson and a deputy chairperson for every newly constituted Board.

(2) The deputy chairperson must, if the chairperson is for any reason unable to act as chairperson, perform all the functions of the chairperson and may exercise all the powers of the chairperson.

(3) If both the chairperson and the deputy chairperson are for any reason unable to preside at a Board meeting, the members present must elect one of the members to preside at that

meeting and the person elected may perform all the functions and exercise all the powers of the chairperson.

(4) A chairperson or deputy chairperson may vacate office as such, and such vacation does not terminate his or her membership of the Board and if the chairperson or deputy chairperson has vacated office, the MEC must appoint a chairperson or deputy chairperson from the Board members.

(5) The person who is appointed by the MEC to the vacant seat of the chairperson or deputy chairperson fills the vacancy for the unexpired portion of the period of office of the vacating chairperson or deputy chairperson.

22 Term of office

(1) A Board member holds office for a period of five years calculated from the date that his or her appointment takes effect and may be eligible for re-appointment for one additional term not exceeding five years.

(2) Despite subsection (1), the MEC may, by notice in the *Gazette*, after consultation with the Board, extend the term of office of all the Board members for a period of six months, but he or she may only extend the term of office of the Board twice.

(3) Despite the duration of office referred to in subsection (1), Board members continue in office until the succeeding Board is duly constituted by the MEC.

23 Meetings of Board

(1) The MEC must, as soon as is practicable after the appointment of the Board for the first term of office, determine the time and place of its first meeting.

(2) The Board must determine the time and place of any future meetings for the first and subsequent terms of office of the Board.

(3) The Board meets as often as circumstances require, but at least four times in every financial year.

(4) A majority of Board members constitutes a quorum at a meeting.

(5) Every Board member, including the chairperson, has one vote and in the event of an equality of votes, the chairperson of the meeting has a casting vote in addition to his or her deliberative vote.

(6) Subject to the approval of the Board, any person who is not a Board member may attend or take part, but may not vote, in a meeting of the Board.

(7) The Board must adopt governance rules which provides for the conduct of proceedings at meetings and recording of the proceedings and including the governance rules for special meetings.

24 Decisions of Board

(1) A decision of the majority of Board members present at any duly constituted meeting constitutes a decision of the Board.

(2) No decision taken by or act performed under the authority of the Board is invalid only by reason of -

- (a) a vacancy on the Board at the time the decision was taken or the act was authorised; or
- (b) the fact that any person who was not entitled to sit as a Board member, participated in the meeting at the time the decision was taken or the act was authorised, if the members who were present at the time followed the required procedure for decisions.

25 Duties of Board

(1) In addition to the duties and responsibilities as accounting authority of the Authority provided for in the Public Finance Management Act, the Board must –

- (a) provide effective, transparent and accountable corporate governance and conduct effective oversight of the affairs of the Authority by adopting governance rules in accordance with subsection (2);
- (b) comply with all applicable legislation and agreements; and
- (c) at all times act in accordance with the code of conduct for members of the Board as may be prescribed by the MEC.

(2) The Board must adopt governance rules that substantially comply with the principles of good governance for a public entity and which provides for at least the following:

- (a) the role and meetings of the Board;
- (b) the role of the chairperson of the Board;
- (c) performance assessment of Board members ;
- (d) the role of the chief executive officer;
- (e) performance assessment of the chief executive officer;
- (f) the composition and procedures for and conduct of meetings of committees of the Board;
- (g) the financial management of the Authority as contemplated in the Public Finance Management Act;
- (h) a procurement policy; and
- (i) a remuneration policy for employees of the Authority developed in consultation with the MEC and the MEC responsible for Finance in the Province.

26 Executive management and employees

(1) The Board must –

- (a) appoint a chief executive officer;
- (b) determine the period of office of the chief executive officer; and
- (c) determine the conditions of appointment of the chief executive officer.

(2) The chief executive officer must enter into a performance agreement with the Board on acceptance of his or her appointment and he or she is accountable to the Board.

(3) The chief executive officer is the head of the Authority's administration and, subject to directives from the Board, the functions of the chief executive officer are, amongst others, to -

- (a) manage the affairs of the Authority;
- (b) implement the policies and decisions of the Board;
- (c) manage and recruit employees to perform the work necessary to achieve the objects of the Authority; and
- (d) develop efficient, transparent and cost-effective administrative systems.

(4) The Authority must determine the conditions of service for its employees, including remuneration which must be determined in accordance with the remuneration policy referred to in section 25(2)(i) .

(5) The chief executive officer may delegate any original or delegated duty or power to any employee appointed in terms of subsection (3)(c) in accordance with section 30(1)(c).

27 Committees

(1) In addition to the audit committee that the Board must establish in terms of the Public Finance Management Act, the Board may, subject to subsection (2), establish any committee to assist it in the performance of its functions and appoint members to that committee, and it may at any time dissolve or reconstitute any such committee.

(2) The Board must, at least, establish the following permanent committees:

- (a) An executive committee;
- (b) a risk committee;
- (c) a remuneration committee;
- (d) a disciplinary committee to give effect to section 51(1)(e) of the Public Finance Management Act and charges of misconduct; and
- (e) a licensing committee.

(3) The Board must determine, subject to any applicable legislation, the number of members and the terms of reference of each committee.

(4) The Board may summarily terminate the membership of a member of a committee if -

- (a) the performance by the member of the powers and functions of that committee is unsatisfactory;

- (b) the member, either through illness or for any other reason, is unable to perform the functions of the committee effectively; or
- (c) the member has failed to comply with or breached any legislation regulating the conduct of members.

(5) If this Act or the Board does not designate a chairperson for a committee, the committee may elect a chairperson from among its members.

28 Executive committee

(1) The executive committee established under section 27 consists of the chairperson of the Board who must act as chairperson of the executive committee, one other member of the Board elected by the Board, the chief executive officer and any other appropriate executive manager of the Authority.

(2) The purpose of the executive committee is to oversee the day-to-day activities of the Authority in order to ensure that the strategic decisions of the Board are implemented effectively and timeously and that the Authority complies with the provisions of this Act, the Public Finance Management Act and any other applicable law.

29 Licensing committee

(1) The licensing committee established under section 27 consists of the chief executive officer of the Authority who must act as chairperson of the licensing committee, the chief legal officer of the Authority, the manager responsible for the inspectorate created in terms of Chapter 8 and the manager responsible for licensing.

(2) The licensing committee must duly consider any –

- (a) application for a new liquor licence in one of the categories contemplated in section 39 and submitted to the Authority as contemplated in section 65; and
- (b) application for the renewal of a liquor licence as contemplated in section 72,

and make recommendations to the Board on the approval or refusal of an application for a liquor licence or the renewal of a liquor licence and the reasons therefor.

(3) The Board may determine by rule which categories of applications and renewal applications may be decided by the licensing committee and must assign its powers and duties to approve or refuse an application to the licensing committee in such rule.

(4) If the Board assigns its powers and duties to approve or refuse certain applications or renewal applications to the licensing committee, the sections pertaining to the exercise of those powers and duties by the Board apply, with the necessary changes, to the licensing committee.

30 Delegations by Board

(1) The Board must develop a system of delegation to maximise administrative and operational efficiency and to provide for adequate checks and balances, and, in accordance with that system may -

- (a) in writing delegate appropriate powers, excluding the power to establish a committee, prescribe governance rules for a committee and appropriating funds, to a committee, the chief executive officer, a member of the Board or an employee of the Authority;
 - (b) delegate the performance of any of its functions to a committee, the chief executive officer, a member of the Board, executive manager or an employee of the Authority; and
 - (c) approve the delegation and assignment of any of the powers or functions delegated or assigned to the chief executive officer by the Board or granted to him or her under this Act, to any employee of the Authority.
- (2) A delegation or assignment in terms of subsection (1) -
- (a) is subject to such limitations and conditions as the Board may impose;
 - (b) may authorise sub-delegation; and
 - (c) does not divest the Board or the chief executive officer in the event of a delegation or assignment in terms of subsection (1)(c) of the delegated power or the performance of the assigned duty.

(3) The Board may confirm, vary or revoke any decision taken by a committee, the chief executive officer, a member of the Board or an employee of the Authority as a result of a delegation or assignment in terms of subsection (1).

CHAPTER 5 FINANCIAL MATTERS AND REPORTING

31 Financial year

The financial year of the Authority is the financial year determined by the Public Finance Management Act for a public entity.

32 Revenue of Authority

The revenue of the Authority consists of -

- (a) money appropriated by the Legislature;
- (b) application and licence fees;
- (c) any money which may accrue to the Authority from any other source.

33 Payments to the Provincial Revenue Fund

All fees received in terms of this Act by the Authority and classified as revenue, must be paid to the Provincial Revenue Fund.

34 Annual budget of Authority

(1) The Authority must, no later than 30 September in each financial year or any other period agreed to between the MEC and the Authority, submit, through the HOD, to the MEC, a budget of its estimated revenue and expenditure for the ensuing financial year for approval by him or her as contemplated in the Public Finance Management Act.

(2) The Authority may not budget for a deficit and may not accumulate surpluses unless the prior written approval of the National Treasury has been obtained.

(3) The Board is responsible for ensuring that the expenditure of the Authority is in accordance with the approved budget.

35 Contents of strategic plan

(1) The Authority must, no later than 30 September in each financial year or any other period agreed to between the MEC and the Authority, submit, through the HOD, to the MEC a strategic plan for approval by him or her as contemplated in the Public Finance Management Act.

(2) The strategic plan must –

- (a) cover a period of at least three years;
- (b) be updated annually on a rolling basis; and
- (c) form the basis for the annual reports of the Authority.

(3) In addition to the requirements of the Public Finance Management Act and any objectives and outcomes that the MEC may determine, the strategic plan of the Authority must provide for the manner in which the Authority intends to give effect to its objectives as stated in section 10, inclusive of strategies, including an intergovernmental coordination strategy and an own revenue generation strategy and preliminary action plans.

(4) The MEC and the Authority must develop and agree on a framework of acceptable levels of materiality and significance of the matters that must be contained in its annual report and financial statements as contemplated in sections 54(2) and 55(2) of the Public Finance Management Act.

36 Preparation and submission of annual report and financial statements of Authority

(1) The Board is the accounting authority for the Authority and must prepare the annual report and the financial statements in terms of section 55 of the Public Finance Management Act and, together with the report of the auditor on the financial statements, submit it to the Provincial Treasury, the MEC and the Auditor-General, if the Auditor-General did not audit the financial statements.

(2) For purposes of section 55(3) of the Public Finance Management Act, the Board must submit the annual report and the financial statements through the HOD, to the MEC, for tabling in the Legislature.

(3) The MEC must, within 20 days of receipt of the annual report and financial statements of the Authority, table it in the Legislature if the Legislature is in session, or if the Legislature is not in session, within 14 days after commencement of its ensuing session.

37 Quarterly reporting

(1) The Board must submit to the MEC the quarterly reports of the Authority, in strict compliance with the applicable provisions of the Public Finance Management Act and the Treasury Regulations issued in terms thereof.

(2) Each quarterly report of the Authority must deal with the state of affairs, the activities, the operations, and the financial position of the Authority, including -

- (a) the extent to which the Authority has achieved or advanced its objects during the financial quarter concerned;
- (b) the relevant performance information regarding the economic, efficient and effective utilisation of resources;
- (c) the amount of money, if any, received from the state or any other source and any other financial commitment furnished to the Authority; and
- (d) the detailed staff establishment and composition of the Authority.

(3) Notwithstanding the provisions of subsection (1), the MEC may, at any time, request the Board to submit to him or her, within a period determined by the MEC, an interim report pertaining to the state of affairs, the activities, the operations, and the financial position of the Authority or pertaining to any specific matter identified by the MEC.

(4) The Board must establish procedures for quarterly reporting to the MEC in terms of the Public Finance Management Act and this chapter, in order to facilitate effective performance monitoring, evaluation and corrective action.

38 Fund to implement and manage programme with regard to adverse effects associated with abuse of alcohol

(1) A fund is hereby established for the purpose of implementing and managing programmes dealing with the adverse effects associated with the abuse of alcohol.

(2) The fund comprises funds contributed by the industry role players, government and voluntary donors.

(3) The Authority must, in consultation with the industry stakeholders, deal with the adverse effects and costs associated with alcohol abuse.

(4) The Board must manage the fund, consider proposals and approve funding for specific projects relating to its specific purposes as stipulated in (1) above.

(5) The Board is required to report to the MEC annually or as requested by the MEC in the format determined by the MEC.

CHAPTER 6 LIQUOR LICENCES

Part 1: Categories of licences

39 Categories of licences

(1) A person must apply for a licence to sell liquor in respect of one or more of the following categories:

- (a) sale of liquor for consumption off the premises:-
 - (i) liquor store licence;
 - (ii) wine club licence;
 - (iii) micro-manufacturer (off premises sale) liquor licence; or
 - (b) sale of liquor for consumption on the premises:-
 - (i) accommodation liquor licence;
 - (ii) restaurant liquor licence;
 - (iii) function venue licence;
 - (iv) tavern liquor licence;
 - (v) a wine-house liquor licence;
 - (vi) theatre liquor licence;
 - (vii) water vessel or boat licence;
 - (viii) airport lounge liquor licence;
 - (ix) club liquor licence;
 - (x) dance hall liquor licence;
 - (xi) night club liquor licence;
 - (xii) pool club liquor licence;
 - (xiii) gaming premises liquor licence;
 - (xiv) sports ground liquor licence;
 - (xv) micro-manufacturing (on consumption) liquor licence;
 - (xvi) special events licence;
 - (xvii) on and off premises consumption liquor licence;
- (2) Any other type of licence that the Authority determines by rule.

Part 2: Conditions applicable to off-consumption licences

40 Place for consumption of liquor

The holder of an off-consumption licence must ensure that no liquor is consumed on the licensed premises.

41 Delivery of liquor

(1) The holder of an off-consumption licence must not –

- (a) deliver any liquor from or by any vehicle or other receptacle or induce any person to do so, unless, before the despatch of the liquor, that liquor was ordered and an invoice, in the form determined by rule, was made out in respect of the order, the original of which must be retained on the premises from which the liquor is despatched;
- (b) convey liquor for delivery in any vehicle or other receptacle unless he or she retains a copy of the invoice, contemplated in paragraph (a), in respect of that liquor in that vehicle or receptacle; or
- (c) deliver liquor to an address not given in that invoice.

(2) Subsection (1) does not apply to the delivery of liquor in the ordinary course of business to a licence holder or an exempted person.

42 Micro-manufacturer's licences

(1) Micro-manufacturers must be as determined by rule and a micro-manufacturer's licence must not be granted except to a person who engages in the manufacturing of any other fermented beverage determined by rule.

(2) Subject to subsection (4), the holder of a micro-manufacturer's licence must not sell or supply liquor to a person who is not the holder of a licence or an exempted person.

(3) Subsection (2) does not apply to the sale of traditional African beer.

(4) An approval may, on application, be granted by the Authority when granting a micro-manufacturer's licence or at any time after such a licence was issued to the licence holder to sell liquor to persons referred to in subsection (2), subject to such conditions set out in the approval as it may in its discretion impose.

(5) The Authority may at any time after the issue of such approval, by a notice delivered to the holder of the licence concerned -

- (a) declare the approval to be subject to conditions or further conditions set out in the notice as it may in its discretion impose; or
- (b) withdraw or amend any condition or declaration imposed or made by it under this section.

(6) Provisions of the National Act in relation to micro-manufacturing apply, with the necessary amendments, in respect of micro-manufacturing licences in terms of this Act.

(7) The holder of a micro-manufacturer's licence may, notwithstanding any law to the contrary sell or deliver liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence.

43 Supply of liquor for on-consumption for micro-manufacturing

(1) Approval may, on application, be granted by the Authority when granting a micro-manufacturer's licence to supply any liquor free of charge in such place on the licensed premises to be set apart for that purpose, as the Authority may determine, to -

- (a) a *bona fide* visitor to those premises;
- (b) a *bona fide* guest; or
- (c) subject to section 82(1)(f) a person employed in the carrying on of the business to which the licence relates, except an employee of the licence holder who is a minor.

(2) The Authority may issue such approval subject to conditions set out in the approval as it may in its discretion impose.

(3) The Authority may at any time after the issue of the approval, by a notice delivered to the holder of the licence concerned -

- (a) declare the approval to be subject to such conditions or further conditions set out in the notice as it may in its discretion impose;
- (b) withdraw or amend any condition or declaration imposed or made by the Authority under this section;
- (c) on application, re-determine the place contemplated in subsection (1); or
- (d) withdraw any approval granted under subsection (1).

44 Liquor store licence

(1) The holder of a liquor store licence must not sell liquor in a receptacle which is not properly and securely sealed and must not sell liquor, other than beer, in a receptacle which has a capacity of more than five (5) litres.

(2) The holder of a liquor store licence may, notwithstanding any law to the contrary, sell or supply liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence.

45 Supply of liquor for on-consumption for liquor store

(1) An approval may, on application, be granted by the Authority when granting a liquor store licence to supply liquor free of charge to a prospective client for consumption, solely for the purpose of tasting, in such place on the licensed premises, to be set apart for that purpose, as the Authority may determine.

(2) The Authority may issue such an approval subject to such conditions, set out in the approval as it may in its discretion impose.

(3) The Authority may at any time after the issue of such approval, by a notice delivered to the holder of the licence concerned -

- (a) declare the approval to be subject to such conditions or further conditions set out in the notice as he or she may in his or her discretion impose;
- (b) withdraw or amend any condition or declaration imposed or made by it under this section;
- (c) on application, re-determine the place contemplated in subsection (1); or
- (d) withdraw any approval granted under subsection (1).

46 Wine club liquor licence

The holder of a wine club liquor licence must at all times maintain on the premises a *bona fide* wine club whose primary business relates to the supply of wine to patrons strictly per order and invoice.

47 Additional conditions for off-consumption licences

The Authority may, by rule, determine any additional conditions for any of the off-consumption licences contemplated in this Part.

Part 3: Conditions applicable to on-consumption licences

48 Place for consumption of liquor

The holder of an on-consumption licence must ensure that liquor sold thereunder is consumed on the licensed premises in the designated areas only.

49 Accommodation liquor licence

(1) For the purpose of this Chapter "accommodation" means premises wherein the primary business relates to lodging and ancillary uses that may be classified in terms of this Act in relation to the size of the respective operations.

(2) The holder of an accommodation liquor licence must at all times maintain on the licensed premises a *bona fide* accommodation business that provides lodging and meals regularly to guests.

(3) A record of all lodgers must be kept on the licensed premises at all times.

(4) Accommodation liquor licences will be classified according to the size of such operations in the following four classes and separate fees will be applicable accordingly:

- (a) accommodation liquor licence A- which caters for up to 20 guests;
- (b) accommodation liquor licence B- which caters for 50 guests;

(c) accommodation liquor licence C- which caters for 100 guests; and

(d) accommodation liquor licence D- which caters for 100 plus guests.

(5) The holder of an accommodation liquor licence may, notwithstanding any law to the contrary, on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence, sell liquor on the licensed premises to a lodger or guest for consumption by the lodger or guest in the accommodation room or to any person taking a meal purchased on those premises and consuming the liquor at or immediately before or after the meal.

50 Restaurant liquor licence

(1) The holder of a restaurant liquor licence must at all times maintain on the licensed premises a bona fide restaurant at which meals are regularly served to guests.

(2) The holder of a restaurant liquor licence may, notwithstanding any law to the contrary, sell liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence, only to a person taking an ordinary meal purchased on the licensed premises and consuming the liquor at or immediately before or after the meal.

51 Theatre liquor licence

(1) The holder of a theatre liquor licence must at all times maintain on the licensed premises a bona fide theatre at which dramatic performances, plays, concerts or films are regularly presented or shown to the public.

(2) The holder of a theatre liquor licence must not sell or supply liquor at or immediately before or after a particular presentation or show to a person who has not been granted access to that presentation or show.

(3) The holder of a theatre liquor licence may, notwithstanding any law to the contrary, sell liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence.

52 Club liquor licence

(1) A club liquor licence must not be granted except to a club in respect of which the Authority is satisfied that it is a bona fide club and that, according to the constitution or rules thereof –

(a) the club consists of at least 15 ordinary members;

(b) its management is elected by its members and regularly holds meetings of which proper minutes are kept;

- (c) only its members including bona fide reciprocity members are permitted to pay for facilities, liquor or refreshments supplied on the premises of the club;
- (d) in so far as the use of its facilities by guests, excluding family members of its members, is permitted by those rules, the number of guests of any member may not on any occasion exceed the number so permitted;
- (e) proper records, including a register of members, are kept;
- (f) members pay an annual subscription fee; and
- (g) no profit from the sale of liquor by the club accrues to any individual.

(2) The holder of a club liquor licence must at all times maintain on the licensed premises a bona fide club in respect of which the requirements of this Act are being complied with.

(3) The holder of a club liquor licence may, notwithstanding any law to the contrary, sell liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence.

(4) The holder of a club liquor licence must not sell or supply liquor to a member of the club for consumption by that member's guest unless that member has entered his or her name and the name and address of that guest clearly and indelibly in the applicable records which that licence holder is required to keep by virtue of this Act.

53 Tavern liquor licences

(1) The holder of a tavern licence must at all times ensure that the licensed premises are separate from any other dwelling, especially a residential dwelling or, if attached to any dwelling, it must be separated by means of walls and securable doors.

(2) The licence holder must at all times provide food and may also provide entertainment, of acceptable standards, on the licensed premises.

(3) The holder of a tavern liquor licence may, notwithstanding any law to the contrary, sell liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence.

54 Pool club liquor licences

(1) For the purposes of this Chapter, a "pool club" means a place where members of a club, or an organised league, play darts, pool, snooker and other similar games for competition and for social purposes.

(2) The holder of a pool club licence must maintain on the licensed premises a *bona fide* pool club providing games defined in subsection (1).

(3) The holder of a pool club liquor licence may, notwithstanding any law to the contrary, sell liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence.

55 Dance hall liquor licence

(1) The holder of a dance hall liquor licence must conduct on the licensed premises a *bona fide* institution engaged in formal dancing, dancing instruction and training.

(2) The holder of a dance hall liquor licence may, notwithstanding any law to the contrary, sell liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence.

56 Nightclub liquor licences

(1) The holder of a nightclub liquor licence must maintain on the licensed premises facilities, which include the provision of light meals, dancing and entertainment.

(2) The holder of a night club liquor licence may, notwithstanding any law to the contrary, sell liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence, to a person visiting the nightclub and consuming the liquor on the premises.

57 Pub liquor licences

(1) The licence holder must at all times ensure that liquor sold is consumed on the premises together with the provision of snacks or light meals.

(2) The holder of a pub liquor licence may, notwithstanding any law to the contrary, sell liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence, to a person visiting the pub and consuming the liquor on the premises.

58 Gaming premises liquor licence

(1) The holder of a gaming premises liquor licence must supply liquor for consumption on the licensed premises.

(2) The holder of a gaming premises liquor licence must conduct a lawful gaming business as a primary business, including betting, on the licensed premises.

(3) The holder of a gaming premises liquor licence may, notwithstanding any law to the contrary, sell or supply liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence.

59 Special event licence

(1) For the purposes of this Chapter, a "special event licence" means a licence issued in terms of this Act allowing the holder of such a licence to trade on the specified premises or site, which excludes any residential premises, for that particular event for a fixed period of not more than seven consecutive days;

(2) The applicant must satisfy the Authority that the sale of liquor is not the principal business of the applicant, but incidental to the occasion to be held by the applicant.

(3) The holder of a special event licence which has been granted in respect of any premises, must ensure that liquor provided to members or guests at the event is for on-consumption only.

(4) The holder of a special event licence may, notwithstanding any law to the contrary, sell or supply liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence.

(5) The sale of alcohol at any special event for which the appropriate licence has not been obtained is an offence.

60 Sports ground liquor licence

(1) The holder of a sports ground liquor licence must at all times maintain on the premises a bona fide sports club on which public sports games or recreations are regularly held.

(2) The holder of a sports ground liquor licence may, notwithstanding any law to the contrary, sell liquor on any day on which public sports are held on the sports games or recreations ground concerned during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence.

61 Function venue licence

(1) The holder of a function venue liquor licence must at all times maintain on the premises a bona fide venue on which functions or events are regularly held.

(2) Patrons of the establishment being served liquor must be attendees for bona fide occasions.

(3) The holder of a function venue liquor licence may, notwithstanding any law to the contrary, sell liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence on which functions or events are held on the premises concerned.

62 Water vessel or boat liquor licence

(1) The holder of a water vessel or boat liquor licence must at all times ensure that light meals are served to patrons.

(2) The water vessel or boat liquor licence issued by the Authority must be linked to a specific body of water and the water vessel or boat liquor licence concerned is not valid on any other body of water.

(3) The holder of a water vessel or boat liquor licence may, notwithstanding any law to the contrary, sell liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence.

63 Airport lounge liquor licence

- (1) The holder of an airport lounge liquor licence must provide light snacks to patrons.
- (2) The holder of an airport lounge liquor licence may, notwithstanding any law to the contrary, sell liquor on any day during the trading hours permitted in terms of relevant municipal by-laws and permitted by the Authority by means of a condition of that licence.

64 Additional conditions for on-consumption licences

The Authority may, by rule, determine any additional conditions for any of the on-consumption licences contemplated in this Part.

Part 4: Applications

65 Submission of application

- (1) An application for a liquor licence must be submitted to the Authority on the form determined by rule.
- (2) Within the period determined by rule the Authority must, from the date of receipt of the submission, examine the submission for completeness and compliance.
- (3) If a submission does not meet the requirements of subsection (2), the Authority must return the submission in the format determined by rule within the stipulated time frame to the applicant.
- (4) The public must be afforded the opportunity to -
 - (a) inspect or obtain a copy of the application; and
 - (b) lodge views, comments and objections regarding the application.

66 Application requirements for liquor licence

- (1) An application for a liquor licence must be on the form determined by the Authority and must be accompanied by -
 - (a) a detailed written motivation in support of the licence application;
 - (b) a detailed site development plan of the premises showing the dimensions, area in square meters of the buildings, rooms, or in the case of a boat or vessel a detailed sketch of the boat or vessel, an aerial photo of the dam or river, point of service areas, construction material and any other requirements which may be determined by rule;
 - (c) a detailed written description of the premises to which the application relates, together with colour photographs of the external and internal features of the premises;

- (d) a signed municipal confirmation of compliance with all municipal requirements, including, but not limited to, the restrictive conditions contained in the title deed, and limitations of the relevant zoning as per the approved municipal town planning scheme;
- (e) a Police Clearance report from the South African Police Service indicating whether or not a person has been convicted of a criminal offence without an option of a fine in the last 10 years;
- (f) the full description of the property in terms of the Deeds Registry Act, the business address and location of the premises to which the application relates;
- (g) a certified copy of the identity document, a certified copy of a valid passport and valid work permit and/or proof of registration documents of the applicant in case of a juristic person;
- (h) proof that notice of the application has been published in at least two newspapers circulating in the municipal area where the premises are located and notice of publication must be as determined by rule.
- (i) proof of lawful occupation;
- (j) a declaration indicating whether or not the applicant holds other liquor licence or permits directly or indirectly and whether or not it has any interests in any other licensed or permitted business in the Province and the number and type of those other licences or permits;
- (k) the BBBEE or BEE status of the applicant indicating the shareholding, member's interest or partnership structure of the applicant;
- (m) proof of payment of the prescribed application fee; and
- (n) an original valid tax clearance certificate issued by the South African Revenue Services; and
- (o) any other document, report, certificate or information requested by the Authority.

(2) The MEC may issue Regulations directing that all applicants must meet a certain BBBEE status within a determined period of time.

67 Consideration of applications by Authority

(1) The Authority must, within the time determined by it by rule, from the date of receiving the application, consider the application to determine if it complies with this Act.

- (2) The Authority may when considering the applications take into cognisance the following:
- (a) reports, representations lodged in support or against the application;
 - (b) any document lodged in relation to the application;
 - (c) whether the premises are or will on completion be suitable for the purposes they will be used under the licence;

- (d) whether the premises, accommodation, equipment and facility in respect of which the licence is to be issued are or will be, if the applicant is licensed, in compliance with the Act and the Regulations;
 - (e) whether the applicant is of good standing and is fit to be a licence holder and not disqualified in terms of this Act to apply for a licence which includes but is not limited to:
 - (i) whether the applicant is an unrehabilitated insolvent;
 - (ii) is a minor on the date of consideration of the application;
 - (iii) whether the person has been convicted of any liquor related offence and was sentenced to a fine of not less than R 200; or
 - (iv) imprisonment without an option of a fine or both imprisonment and fine.
 - (f) report from the municipality;
 - (g) issues of public interest which includes but is not limited to:-
 - (i) the proximity of the proposed premises to educational institutions, place of worship, public transport and other liquor outlets;
 - (ii) the ratio of the population against the number of liquor outlets in the area of the proposed licence;
 - (iii) views, comments and objections in terms of the Act;
 - (iv) the applicants commitment to Black Economic Empowerment; and
 - (v) the extent to which the proposed licence may materially restrict or promote the access of new entrants to the liquor industry;
 - (vi) the diversity of ownership in the liquor industry and the nature of anti-competitive behaviour within the liquor industry; and
 - (h) any other matter prescribed by the MEC or determined by rule by the Authority.
- (3) After consideration of the application and all relevant factors the Authority must:
- (a) approve;
 - (b) approve subject to conditions; or
 - (c) refuse,
- the application for a liquor licence and within the period determined by rule notify the applicant in writing of the Authority's decision.
- (4) The Authority has a discretion to grant a licence in the case of premises situated within a radius of 500 metres of a place of worship, educational institution, any other liquor outlet, public transport facility, or such further distance as the Authority may determine by rule or as may be prescribed from time to time.
- (5) The Authority must endeavour to:
- (a) limit the negative impact of liquor outlets on residential areas;

- (b) facilitate a safe walking environment for minors that attend educational institutions;
- (c) locate liquor outlets in residential areas in nodal areas as per the municipal spatial development frameworks where multiple land uses are catered for; and
- (d) focus the agglomeration of liquor outlets in higher order nodes where multiple land uses of a greater diversity and complexity are catered for as per the municipal spatial development framework developed in accordance with the Spatial Planning and Land Use Management Act, 16 of 2013 and incorporated into the integrated development plan of the municipality concerned in terms of the Local Government: Municipal Systems Act, 32 of 2000.

68 Application for Special Events Licence

- (1) Any person may apply for a special event licence in the manner determined by rule.
- (2) An application for the special event licence must be made within 30 days prior to the date of the special event.
- (3) An application for a special event licence must be considered by the Authority.
- (4) The application for a special event licence must be accompanied by supporting documents including written notification to the SAPS within the relevant jurisdiction.
- (5) A special event licence may only be issued for a period not longer than seven days.
- (6) On good cause shown by the applicant the Authority may grant the licence for a longer period than seven days contemplated in subsection (5).
- (7) In considering the application, the Authority may:
 - (a) approve the site development plan;
 - (b) restrict the sale or consumption of liquor to designated areas on the site; and
 - (c) determine the kind of liquor sold.
- (8) The Authority may after consideration of the application and any other document or matter which it regards relevant to the application refuse or grant the application subject to conditions it deems necessary.
- (9) Such conditions must be set out in the licence.
- (10) An applicant whose application has been refused or who is dissatisfied with the condition of a licence may appeal against refusal or against the condition to the Appeal Tribunal.

69 Objections

Any member of the public, association, any municipality, South African Police Service, department or other organ of state may, within 21 calendar days from the date of the notice of application, lodge a notice regarding the granting of a licence in the form determined by rule at the offices of the Authority in duplicate;

- (a) objecting to the granting of the application published;

- (b) requesting that the application be approved with conditions;
- (c) requesting further information regarding such application and or the operations of the applicant should the licence be issued.

70 Hearing of applications

(1) The Authority may convene a hearing to consider any application and objections to the application in question, on such date, time and place as determined.

(2) All interested persons, including the applicant and any person who has lodged an objection to an application, must be afforded an opportunity to be heard and may be represented by a person of their choice.

(3) A hearing may be adjourned and resumed on such date and at such time and place as the Authority may determine.

Part 5: Issue, renewal and variation, suspension or cancellation of licence

71 Licence

(1) When the Board approves an application for a liquor licence it must, subject to subsection (2), issue a licence in the format determined by rule, which must include the -

- (a) full names and trading name of the licence holder;
- (b) category of the licence;
- (c) liquor licence fee;
- (d) licence number;
- (e) date on which the licence was approved;
- (f) date on which the licence expires;
- (g) physical address in respect of which the licence has been issued; and
- (h) conditions upon which the licence was approved, if any.

(2) A licence will be issued upon payment of the prescribed liquor licence fee.

(3) A licence issued must be recorded in the register referred to in section 79.

(4) A liquor licence issued in terms of sub-section (1) is proof that the licence holder has met all requirements for a valid liquor licence in terms of this Act and is authorised to commence trading.

(5) The licence holder must -

- (a) indicate the liquor licence number on all trading documents; and
- (b) display the original licence at the premises in respect of which the licence is issued in the manner determined by rule.

(6) When a licence is lost, stolen, damaged or destroyed, the licence holder must immediately report the matter to the South African Police Services and must, within 14 days on the form determined by rule, apply for a duplicate licence.

(7) The Authority may issue a duplicate licence upon payment of the prescribed duplicate licence fee.

72 Renewal of licence

(1) Every licence must be renewed annually within twelve months from date of issue.

(2) An application for the renewal of a liquor licence must be submitted by the holder of the liquor licence to the Authority on the form determined by rule and must be accompanied by the prescribed renewal fee.

(3) Notwithstanding subsection 1, the Authority must consider issues of compliance with the licence conditions and the Act when renewing any licence.

(4) The Authority may refuse to renew any licence in consideration of subsection (3).

(5) Licences issued prior to the commencement of this Act will be renewed in terms of this section.

73 Variation, suspension or cancellation of licence

(1) If a licence holder who has been served a notice in terms of section 93 does not comply with the requirements stated in the notice or becomes disqualified or otherwise incompetent in terms of this Act, the Authority must -

- (a) vary or suspend the licence on such terms and conditions as the Authority may determine; or
- (b) cancel the licence; and
- (c) notify the licence holder in writing of -
 - (i) the variation or suspension or cancellation and state the reasons therefor;
 - (ii) the date on which the licence was varied or suspended or cancelled; and
- (d) amend the register of licences accordingly.

(2) When a licence has been cancelled, all the rights, benefits and allowances accruing therefrom lapse immediately.

(3) For the purposes of this Act, variation, suspension or cancellation of a licence takes effect on the date on which the licence is varied, suspended or cancelled by the Authority.

Part 6: Appeals

74 Eastern Cape Liquor Appeal Tribunal

(1) There is hereby established the Eastern Cape Liquor Appeal Tribunal for the Province which must consider appeals against decisions made by the Authority.

(2) The MEC must constitute the Appeal Tribunal comprising not less than three and not more than five members and it must consist of at least the following : –

- (a) One person admitted as an attorney or an advocate of the High Court of South Africa with at least five years' experience in the legal profession or administration of justice;
- (b) one representative appointed from the public sector responsible for town planning, education, health, social development or local government; and
- (c) one person who must have either business acumen or knowledge of the liquor industry.

(3) The MEC must–

- (a) publish an invitation, calling for applications to the Appeal Tribunal, in two newspapers with wide circulation in the Province; and
- (b) consider all applications submitted in response to the invitation and appoint members to the Appeal Tribunal.

(4) The MEC must ensure that the Appeal Tribunal represents a broad section of the population of the Province, with special attention to race, gender and disability.

(5) The MEC must designate –

- (a) a member of the Appeal Tribunal as presiding officer; and
- (b) another member as deputy presiding officer, to act as presiding officer when the presiding officer is unable to perform those duties.

(6) The provisions of sections 16, 17, 18, 19, 20, 21 and 23 apply, with the necessary changes, to the members of the Appeal Tribunal.

(7) The Department must provide the secretariat for the Appeal Tribunal and is responsible for the remuneration of the members of the Appeal Tribunal and other costs which may be incurred by the Tribunal.

75 Appeal

(1) An applicant or party to the proceedings who is aggrieved by a decision of the Authority, may, within 21 days of being served with a notice of the decision of the Authority, lodge an appeal in the prescribed manner and form with the Appeal Tribunal.

(2) An appeal must include the following:

- (a) a copy of the application for the liquor licence concerned in case of the applicant;
- (b) a written statement on the grounds of appeal;
- (c) the decision and reasons for the decision issued by the Authority; and
- (d) any other information which may be relevant to the appeal.

76 Hearing of Appeal

(1) Within 30 days after receiving all the documents referred to in section 75, the Appeal Tribunal must consider the appeal.

(2) The majority of the members of the Appeal Tribunal constitute a quorum for a meeting of the Appeal Tribunal.

(3) The Appeal Tribunal may –

- (a) uphold the decision of the Authority in full or in part;
- (b) set aside the decision of the Authority and substitute it with the decision that it considers appropriate; or
- (c) dismiss the appeal.

(4) The Appeal Tribunal must notify the relevant parties including the applicant and the Authority, in writing, of the decision within 14 days of considering the appeal.

(5) If the Appeal Tribunal dismisses a decision of the Authority relating to the cancellation of a licence, the Authority must re-issue the licence and amend the register of licences accordingly.

Part 7: Deceased and insolvent estates, curatorship and voluntary cancellation

77 Death or incapacity of licence holders

(1) For the purposes of this section, the expression 'an administrator of an estate' includes-

- (a) an executor of a deceased estate;
- (b) a liquidator or trustee of an insolvent estate; and
- (c) a curator.

(2) When a licence holder dies, becomes insolvent, or is placed under curatorship, the administrator of the estate must, as soon as he or she is appointed, inform the Authority of his or her appointment as such;

(3) The administrator may, for the purposes of administering the estate, continue to conduct the licensed activities in the name of the estate or make a proposal to the Authority to transfer the licence to another qualified person;

(4) Any person may apply in the manner and form determined by rule to the Authority for the appointment of a person to conduct the licensed activities of the licence holder, pending the appointment of an administrator contemplated in subsection (2).

(5) Before granting an application made in terms of subsection (4), the Authority must be satisfied that –

- (a) every person with a financial interest in the matter has been given reasonable notice of the application;
- (b) an administrator has not been appointed; and
- (c) there are reasonable grounds to believe that an administrator will be appointed.

(6) A person appointed in terms of subsection (4) may, for the purpose of administering the estate, continue to conduct the licensed activities in the name of the estate, until an administrator has been appointed.

78 Voluntary cancellation and winding-up or dissolution

(1) The holder of a licence may voluntarily cancel that licence by sending the Authority a notice in writing -

- (a) stating the licence holder's intention and reason to cancel voluntarily; and
- (b) specifying a date, at least 60 days after the date of the notice, on which cancellation is to take effect,

(2) If the holder of a licence resolves to be sequestrated, wound-up or dissolved, that holder must within 30 days of the completion of the sequestration, winding-up or the dissolution process or an order of court, send to the Authority a written notice -

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

(3) Upon receiving a notice contemplated in subsection (2), the Authority must on the date specified in the notice -

- (a) cancel the licence and amend the register of licences accordingly; and
- (b) notify the licence holder in writing of the date of which the licence was cancelled.

Part 8: Register of licences

79 Register of licenses

- (1) The Authority must keep a register of -
- (a) applications for licences;
 - (b) licences issued;
 - (c) appeals lodged against a decision of the Authority;
 - (d) cancelled licences.
- (2) The Authority may determine by rule the format and manner of keeping the register.

Part 9: Management of business

80 Management of business

(1) A person other than a natural person must not conduct any business under a licence unless a natural person who permanently resides in the Republic and who is not disqualified or incompetent in terms of this Act to be a holder of a licence, is appointed by him or her in the manner determined by rule to manage and be responsible for its business.

(2) A natural person who is a licence holder may in the manner determined by rule appoint another natural person who permanently resides in the Republic and who is not disqualified or incompetent in terms of this Act to be a licence holder, to manage and be responsible for the business to which the said licence relates.

(3) If a holder of a licence or the only member of a company or close corporation which is a holder of a licence -

- (a) has, in the opinion of the Authority, left the relevant licensed premises without making provision for the conduct thereon of the business to which the licence relates; or
- (b) becomes a person who is disqualified or otherwise incompetent in terms of this Act to be a holder of a licence,

or if the holder of a licence which is a partnership, is dissolved, the Authority may, on application by a person who has an interest in the relevant business, appoint any person who is in the opinion of the Authority, fit to manage and be responsible for that business for a period of not more than 12 months, and a person so appointed must, subject to subsection (4) (b), for the period of his or her appointment for all purposes be deemed to be the licence holder.

(4) An appointment under subsection (3) -

- (a) must be subject to the conditions set out in the appointment that the Authority may in his or her discretion impose;
- (b) must not affect any right of a person who has an interest in the business concerned; and
- (c) may at any time be withdrawn by the Authority.

(5) A person managing and responsible for a business to which a licence relates, must be subject to the same obligations and liabilities as the relevant licence holder.

(6) Sub-section (5) must not be interpreted to release the licence holder from any obligation or liability to which he or she is subject in law.

CHAPTER 7 PROHIBITIONS

81 Responsible sale and supply of liquor

(1) A licence holder must not sell, supply or give liquor to-

- (a) a minor;
- (b) a person who is dressed in a school uniform;
- (c) a person who reasonably appears to be intoxicated; or
- (d) a pregnant woman.

(2) A licence holder must not permit a person contemplated in sub-section 3 (1) (a) and (b) -

- (a) to consume liquor on licensed premises under the control of the licence holder;
 - (b) to be in or on any place within licensed premises where liquor is sold for consumption on the premises, except in a room where meals are served to diners seated at tables;
 - (c) to be in or on the licensed premises, in which liquor is sold for consumption off the premises, unless -
 - (i) the licensed premises are a retail food store; or
 - (ii) the person is accompanied by a parent, guardian or other adult with the apparent consent of the parent or guardian; or
 - (d) to be in any room or place within the licensed premises that the Authority has demarcated as an area in which minors are not allowed to be.
- (3) A licence holder -
- (a) must take reasonable steps to verify the age of a person who appears to be under the age of 18 years, before selling, supplying or giving liquor to that person; and
 - (b) may take reasonable steps to verify the age of any other person before selling, supplying or giving liquor to that person.
- (4) A licence holder in terms of this Act must not sell liquor to a manufacturer or a wholesaler in liquor.
- (5) A licence holder must visibly display in the licensed premises a notice stating that:
- (a) liquor may not be sold to persons under the age of 18 years, and persons under 18 years are not allowed in the premises
 - (b) the manager or any person in charge of the premises may request the Identity Document of any person to verify their age before any liquor may be sold or supplied to them.
 - (c) liquor may not be sold to intoxicated persons;
 - (d) the consumption of liquor by a pregnant woman may cause harm to her and the unborn baby;
 - (e) drinking and driving is dangerous and illegal;
 - (f) no guns or sharp objects are allowed in the premises;
 - (g) that a gun safe is available;
 - (h) the owner of the premises reserves the right to search anybody before entering the premises or inside the premises; and
 - (i) the right of admission is reserved.
- (6) The MEC, by regulation, may prescribe-
- (a) standards for notices required by subsection (5), and additional provisions to be included in any such notices; or

(b) days and times during which liquor may not be sold.

(7) In addition to any regulations contemplated in subsection (6)(b), the Authority may further restrict the operating days and hours during which a particular licence holder may sell liquor, subject to conditions set out in the licence.

(8) A licence holder must not sell liquor on a day or at a time prohibited by regulation or the licence conditions.

(9) The MEC, in consultation with the Member of the Executive Council responsible for health matters in the Province, may prescribe the content and the manner in which licence holders must display public health notices relating to the sale or consumption of liquor.

(10) A licence holder must not employ any person, in connection with the sale of liquor who –

(a) is under the age of 18 years.

(b) was convicted within the preceding two years of contravening any law regulating the sale and/or micro-manufacturing of liquor, and was sentenced to imprisonment without the option of a fine, or to both imprisonment and a fine.

(11) Subsection (10) (a) does not apply to a registered student under the age of 18 years who is acquiring skills in a field of an accredited institution.

(12) It is an offence for any person to -

(a) sell liquor without a liquor licence, or contrary to the conditions of the liquor licence;

(b) contravene subsection (1), (2)(a), (3), (4), (7) or (9).

82 Responsible consumption of liquor

(1) A minor must not -

(a) buy or attempt to buy liquor; or

(b) falsely represent himself or herself to be over the age of 18 years in an attempt to persuade another person to sell, supply or give liquor to him or her.

(2) A person must not refuse to provide identification when required by a licence holder for the purpose of verifying the person's age.

(3) A person must not supply or give liquor to a minor, other than the bona fide supplying or giving of negligible quantities of liquor in performance of a religious ceremony or service.

(4) A person must not —

(a) falsely represent a minor to be over the age of 18 years in an attempt to persuade another person to sell, supply or give liquor to the minor;

(b) act violently or be disorderly in any premises in which liquor is sold or supplied;

(c) consume any liquor in public including but not limited to any road, street, lane or thoroughfare, or on vacant land adjacent thereto, in an urban area or other area subdivided into erven or plots with streets bounded by such erven or plots;

- (d) consume liquor in a motor vehicle driven in a public road or allow consumption of liquor in a motor vehicle of which he or she is the driver or which is under his or her control while it is driven in a public road or allow liquor contained in an open container to be in a motor vehicle while driven on a public road;
- (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 or not; or
- (f) offer or supply liquor to a person as –
 - (i) payment for wages;
 - (ii) remuneration;
 - (iii) an inducement to employment; or
 - (iv) a supplement to employment.

(5) A person who contravenes any provision of this section commits an offence and is liable on conviction, to a fine or imprisonment or to both a fine and imprisonment.

83 Prohibition of sale of unhealthy concoctions

(1) A person must not sell, supply, possess, or have custody or control of any concoction manufactured by the fermentation of treacle, sugar or other substances as liquor or beer.

(2) Any concoction manufactured by the fermentation of any substance the consumption of which would, in the opinion of the Member of the Executive Council for Health, be prejudicial to the health and well-being of the population of the Province, and specified by him or her by a notice in the Provincial Gazette; or

(3) The Member of the Executive Council for Health may at any time by notice withdraw or amend any notice issued under subsection (2).

84 Spirits

The MEC may make regulations regarding the -

- (a) importation, trans-shipment, conveyance, transmission, keeping, sale or use of methylated spirits;
- (b) categories of persons who may sell methylated spirits;
- (c) keeping of records or other documents in respect of any dealing in methylated spirits, the form and manner in which the records or other document must be kept and the particulars to be entered therein;
- (d) custody and retention of records or other documents contemplated in paragraph(c);
- (e) de-naturing, odourisation, colouring and rendering importable of methylated spirits sold or kept for sale, and the manner in which this must be done;

- (f) quantities of methylated spirits which may be sold on any occasion to any person and the receptacles in which it must be sold; and
- (g) prohibiting or restricting the purchase or possession of methylated spirits, including the granting of permits for the purchase or possession thereof.

CHAPTER 8 COMPLIANCE AND ENFORCEMENT

85 Appointment or designation of inspectors

(1) The Authority may appoint or designate any employee of the Authority as an inspector for purposes of enforcing any liquor related matter contemplated in this Act.

(2) In addition to the powers set out in this Chapter, an inspector is deemed to be a peace officer and may exercise all the powers assigned to a peace officer, or to a police official who is not a commissioned officer, in terms of chapters 2, 5, 7 and 8 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) in order to enforce the provisions of this Act.

(5) A certificate of appointment or designation, in the form determined by rule, issued by the Authority certifying that a person has been appointed or designated as an inspector is *prima facie* proof of the appointment or designation.

86 Powers and duties of inspector

(1) An inspector may –

- (a) conduct an inspection and monitor and enforce compliance with this Act and any other law which authorises him or her to conduct an inspection or monitor or enforce compliance with any liquor related matter;
- (b) investigate any complaint submitted to him or her in the format determined by rule;
- (c) question any person present on any land or premises in respect of any matter which may be relevant to the inspection;
- (d) question any person whom the inspector believes may have information relevant to the inspection;
- (e) order any person to appear before him at a reasonable time and place determined by the inspector with regard to the matter being investigated;
- (f) 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;
- (g) copy any document referred to in paragraph (f), or if necessary, remove the document in order to copy it;

- (h) take photographs or make audio-visual recordings of anything or any person, process, action or condition on or regarding any land or premises;
 - (i) take samples of any substance that is relevant to the work or inspection;
 - (j) seize any liquor that is sold or distributed contrary to the provisions of this Act;
 - (k) seize any substance that appears to be prohibited in terms of section 6 of the National Act;
 - (l) issue a notice of a non-compliance in terms of section 93 in the format determined by rule; and
 - (m) do all things necessary for conducting the inspection.
- (2) When entering the premises in terms of this section an inspector must:
- (a) identify himself or herself to the person in charge of the premises; and
 - (b) explain the authority in terms of which the inspection is being conducted.
- (3) An inspector who removes anything, other than a substance contemplated in subsection (1) (i), from land or premises being inspected, must -
- (a) issue a receipt for it to the owner of or person in control of the land or premises;
 - (b) secure the seized goods referred to in subsection (1)(k), pending a decision concerning forfeiture of those goods in terms of section 35(2) of the National Act; and
 - (c) return it as soon as practicable after achieving the purpose for which it was removed.

87 Entry with warrant

- (1) An inspector may enter any land or premises if a judicial officer has issued a warrant in accordance with subsection (2) to enter or inspect the land or premises, and the warrant is still valid.
- (2) A judicial officer may issue a warrant to enter and inspect any land or premises, if, from information in writing on oath, the judicial officer has reason to believe that -
- (a) it is necessary to obtain information, in the interest of the public, that cannot be obtained without entering the land or 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 land or premises that may be entered and inspected; and
 - (b) authorise the inspector to enter and inspect the land or premises and to do anything contemplated in section 86.
- (4) A warrant in terms of subsection (2) is valid until -
- (a) it is executed;
 - (b) it is cancelled by the judicial officer who issued it or, in his or her absence, by another 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 of 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 or designation; 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 land or premises is absent or refuses to accept a copy, attach a copy of the warrant to the land or premises in a prominent and visible place.

88 Entry when no warrant is required

(1) An inspector who does not have a warrant in his or her possession may enter and inspect any -

(a) land or premises with the consent of the owner or person apparently in control of the land or those premises if that person appears to be above the age of 18 years;

(b) licensed premises within the timeframes provided for as a condition of the license;

(c) land or premises if authorised to do so by any other law; or

(d) land or premises in respect of which there is an outstanding notice of non-compliance issued in terms of section 93, for purposes of determining whether that notice has been complied with.

(2) Before commencing an inspection on any land or premises in terms of this section, an inspector must -

(a) identify himself or herself to the owner or other person in charge of the premises;

(b) explain to that person the authority by which the inspection is being conducted; and

(c) show that person his or her certificate of appointment or designation;

(3) Any entry and inspection of any land or premises without a warrant must be carried out between sunrise and sunset.

89 Resistance against entry or inspection

(1) An inspector carrying out a warrant in terms of section 87 may overcome any resistance to entry or inspection by using force that is reasonably necessary in the circumstances to overcome the resistance against such entry or inspection, including breaking a lock, door or window of the land or 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) The Authority must compensate anyone who suffers damage caused as a result of forced entry during an inspection if no-one responsible for the premises was present.

(4) Force may not be used to effect an entry or to conduct an inspection in terms of section 88, unless permitted in terms of any other law or in the case of an emergency.

90 Inspector may be accompanied

An inspector may be accompanied during an inspection by a member of the South African Police Services, or any other person reasonably required to assist in conducting the inspection.

91 Duty to produce document

Any person who is in possession of any document relevant to an inspection must produce it at the request of an inspector.

92 Duty to answer questions and assist inspector

(1) Any person who is questioned by an inspector in terms of this Chapter must first be informed of his or her constitutional rights before any questioning commences and any voluntary answer thereafter by that person must be truthful and to the best of his or her ability.

(2) 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.

(3) An owner or occupier of any land or premises must provide any facility and assistance that is reasonably required by an inspector to perform his or her functions effectively.

93 Notice of non-compliance

(1) An inspector who is of the opinion that any provision of this Act has not been complied with, may, subject to subsection (2), issue a notice of non-compliance in the form determined by rule, to the licence holder or person apparently in control of the relevant land or premises.

(2) A notice of non-compliance contemplated in subsection (1) must -

- (a) refer to the provision that has allegedly not been complied with;
- (b) contain the details of the nature and extent of the alleged non-compliance;
- (c) identify the steps that the licence holder is required to take in order to comply;

- (d) inform the licence holder that he or she has 21 days within which to object to the notice of non-compliance referred to in section 93;
- (e) inform the licence holder that he or she has 30 days from the date of the notice to comply with the requirements; and
- (f) contain the penalty, if any, that may be imposed in terms of Chapter 9 in the event of non-compliance with those steps.

(3) A copy of the notice of non-compliance must, in the manner determined by rule, be submitted to the Authority for consideration.

94 Non-compliance with licence obligations and conditions

(1) The Authority may, after the period of 30 days referred to in section 93(2)(e) has expired and if no objection was lodged against a notice of non-compliance -

- (a) direct compliance by the licence holder within 14 days as contained in the notice of non-compliance;
- (b) amend the licence conditions; or
- (c) suspend the licence.

(2) If, after the expiry of the 14 day period referred to in subsection (1)(a), the licence holder has not complied with the directive of the Authority, the Authority must, if it is satisfied that any non-compliance constitutes an offence, report the licence holder to the South African Police Service for investigation and the provisions of section 73 apply.

95 Compliance certificate

(1) An inspector who is satisfied that the licence holder or person apparently in control of any land or premises has satisfied the terms of a notice of non-compliance may issue a compliance certificate, in the manner and format determined by rule, to indicate that compliance.

(2) A notice of non-compliance must remain in force until an inspector issues a compliance certificate in respect of that notice.

96 Objection to notice of non-compliance

(1) Any person issued with a notice of non-compliance may, in the manner determined by rule, object to it by making representations to the Authority within –

- (a) 21 days of receipt of that notice; or
- (b) such longer period as may be allowed by the Authority on good cause shown.

(2) After considering any representations by the objector and any other relevant information, the Authority may confirm, modify or cancel any notice of non-compliance or any part of such notice.

(3) The Authority must serve a copy of the notice made in terms of subsection (2) on the objector and, if the objector is not a person licensed in terms of this Act, any licensed person affected by the notice.

(4) If the Authority confirms or modifies the notice or any part of the notice, the objector must comply with that notice within the time period specified in that notice.

97 Review or appeal of decision of Authority

A decision of the Authority to cancel a licence as contemplated in section 93(2) is subject to review or appeal to the extent provided for, and in accordance with, the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

98 Closing of licensed premises

(1) Where the Authority or an inspector is of the opinion that –

- (a) public disturbance;
- (b) disorder;
- (c) gross violation of the Act;
- (d) a riot;
- (e) continuous non-compliance with the provisions of the Act; or
- (f) public violence,

is occurring or threatening at or near any licensed premises, the inspector or the Authority may order the licence holder or the manager or agent of the licence holder to close the licensed premises for the period directed by the inspector or the Authority.

(2) The licence holder, manager or agent of the licence holder, must comply with an order in terms of subsection (1).

(3) An inspector or the Authority may at any time withdraw an order issued in terms of subsection (1).

99 Reporting by inspector

An inspector must submit a report to the Authority -

- (a) providing information on matters to be taken into account in respect of an application for the licence;
 - (b) on any failure by a licence holder to discharge an obligation or condition of the licence;
 - (c) of the disqualification of a licence holder in terms of this Act to hold the licence or permit concerned;
 - (d) that alterations or repairs must be effected to any licensed premises;
 - (e) that alterations were effected to licensed premises without the approval of the Authority;
- and

- (f) on any other matter regarding licences, which an inspector regards as important to bring to the attention of the Authority.

CHAPTER 9 OFFENCES AND PENALTIES

100 General offences

It is an offence for any person to -

- (a) sell liquor without a valid licence;
- (b) falsely represent himself or herself to be over the age of 18 years;
- (c) be intoxicated, violent or disorderly on any premises, whether licensed or not, on which liquor may by virtue of this Act be sold;
- (d) be intoxicated in or on or near any public place, including but not limited to any road, street, lane, thoroughfare, square, park, market, shop, warehouse or public garage or similar place;
- (e) consume liquor in or on or near any public place, including a motor vehicle driven on a public road or parked in a public place;
- (f) introduce, possess or consume any liquor on a sports ground, or any part thereof, to which the public has or is granted access, except on any licensed premises situated on the sports ground concerned;
- (g) falsely represent himself or herself or any other person to belong or not to belong to a category of persons in order to persuade the licence holder, or his or her agent or employee, to sell or supply liquor to him or her or that other person which may by virtue of this Act not be sold or supplied to a person who does not belong or belongs to that category;
- (h) supply liquor to a person in his or her employ as wages or remuneration or as a supplement therefore;
- (i) sell or supply any illegal or counterfeit liquor; or
- (j) contravene any provision of this Act.

101 Offences by licence holders in general

It is an offence by a licence holder to -

- (a) fail or refuse to comply with any condition, directive of a licence or contravene any provision of this Act;
- (b) keep the licensed premises open for the sale, supply or consumption of liquor or sell or supply any liquor at a time when the sale of liquor is not permitted in terms of relevant municipal by-laws or the conditions attached to the licence and this Act;
- (c) falsely without authorisation alter a licence;

- (d) sell or supply liquor in a place where the sale or supply of liquor is not permitted in terms of the licence;
- (e) fail to keep any record which he or she is by virtue of this Act required to keep, or keep such a record in an inadequate or improper manner;
- (f) fail or refuse to comply with any notice issued in terms of this Act or any direction or order of an inspector or the Authority;
- (g) allow drunkenness, prostitution or licentious conduct on the licensed premises;
- (h) allow the sale, use or possession of drugs upon the premises in contravention of any law dealing with such sale, use or possession;
- (i) sell or supply liquor to an intoxicated person;
- (j) allow a person who has a weapon in his or her possession to enter the premises;
- (k) structurally alter, add to or reconstruct the licensed premises without the consent of the Authority;
- (l) sell or supply liquor to a person under the age of 18 years, and
- (m) in respect of an off-consumption licence, open or allow to be opened on the licensed premises any receptacle containing liquor sold by him or her.

102 Offences regarding trading in liquor

(1) No licence holder person may enter into or be a party to any agreement, understanding or condition whereby that or any other licence holder is directly or indirectly bound at any time -

- (a) to take delivery of liquor, whether together with any other article or not, from or through a licence holder whether to the exclusion wholly or partly of any other licence holder or not;
- (b) to take delivery of, distribute or keep in stock liquor of a particular licensed manufacturer;
- (c) not to take delivery of liquor from or through a particular licence holder; or
- (d) not to take delivery of, distribute or keep in stock liquor of a particular licensed manufacturer.

(2) No licensed retailer may accept delivery of any liquor which has not been ordered by such retailer.

(3) No licence holder may fix, maintain or establish the price at which another licence holder must sell any liquor.

(4) No licensed manufacturer, officer or director of any licensed manufacturer may be the owner, proprietor or lessor of any premises covered directly or indirectly by any wholesaler's licence.

(5) No licensed manufacturer or wholesaler may, either directly or indirectly, give or lend any money or make any donation in cash or in kind to any retailer for the purposes of equipping, fitting out or maintaining and conducting, either in whole or in part, or the establishment of a business operated under a liquor retail licence, except the usual and customary credit for returning packages or containers in which liquor was packed for the market by the manufacturer.

103 Offences relating to Authority

A person is guilty of an offence if that person -

- (a) hinders or interferes with the Authority, or a member of the Authority or an employee of the Authority, in the execution of official duties;
- (b) wilfully furnishes to the Authority, member of the Authority or an employee of the Authority, false or misleading information; or
- (c) falsely professes to be a member of the Board or an employee of the Authority, or the interpreter or assistant of that employee.

104 Offences regarding inspections

A person is guilty of an offence if that person-

- (a) refuses to grant an inspector access to premises to which the inspector is duly authorised to have accessed;
- (b) obstructs, interferes, or hinders an inspector who is exercising a power or performing a duty in terms of this Act;
- (c) refuses to provide an inspector with a document or information that the person is lawfully required to provide in terms of this Act;
- (d) furnishes false or misleading information to an inspector;
- (e) unlawfully prevents the owner of any land or premises, or a person working for that owner, from entering the land or premises in order to comply with a requirement of this Act;
- (f) pretends to be an inspector;
- (g) falsifies an authorisation or a warrant, notice of non-compliance or compliance certificate contemplated in chapter 7;
- (h) fails to comply with a notice of non-compliance issued in terms of section 93;
- (i) enters any land or premises without a warrant in circumstances requiring a warrant;
- (j) acts contrary to a warrant issued in terms of chapter 7;
- (k) without authority enters or inspects land or premises;
- (l) discloses any information relating to the financial or business affairs of any person which was acquired in the exercise of any power or performance of any duty in terms of this Act except -

- (i) to a person who requires that information in order to exercise a power or perform a duty in terms of this Act;
- (ii) where the disclosure is ordered by a competent court; or
- (iii) where the disclosure is in compliance with the provisions of any law.

105 Penalties and forfeiture

(1) Any person who is guilty of an offence in terms of this Act must, on conviction, be liable to a fine not exceeding R100 000,00 or to imprisonment for a period not exceeding 10 years or both such fine and imprisonment.

(2) In addition to imposing a penalty in terms of subsection (1), a court that has convicted a person of an offence and an inspector seized any liquor in terms of section 86 that was in the possession of that person, must order the destruction of that liquor.

106 Imputation of criminal liability

(1) If a manager, agent or employee of a person commits an offence by performing or omitting to perform an act and such performance or omission would have constituted an offence had it been done by the person, that person is equally guilty of the offence if the act or omission fell within the scope of the authority or employment of the manager, agent or employee concerned and the person –

- (a) either connived at or permitted the act or omission by the manager, agent or employee concerned; or
- (b) did not take all reasonable steps to prevent the act or omission.

(2) For purposes of subsection (1), the fact that a person issued instructions prohibiting an act or omission is not in itself sufficient proof that all reasonable steps were taken to prevent the act or omission.

CHAPTER 10

TRANSITIONAL PROVISIONS

107 Dissolution of Eastern Cape Liquor Board

From the date of commencement of this Act, the Eastern Cape Liquor Board established in terms of the Eastern Cape Liquor Act, 2003 is hereby dissolved.

108 Legal successor

(1) From the date of commencement of this Act, the Authority is, for all purposes in law, the legal successor to the Eastern Cape Liquor Board and

(a) becomes the owner of all movable and immovable property of the Eastern Cape Liquor Board;

(b) is substituted as contracting party for the Eastern Cape Liquor Board in all contracts as if the Authority had been the contracting party at the time of contracting and the contractual rights, obligations and liabilities of the Eastern Cape Liquor Board in terms thereof are transferred to the Authority ; and

(c) is deemed to have issued all financial instruments of the Eastern Cape Liquor Board.

(2) Any money standing to the credit of Eastern Cape Liquor Board in its bank accounts immediately before the commencement of this Act vests in the Authority and must be transferred to the bank account of the Authority when it is established.

(3) Any reference in any law or document to the Eastern Cape Liquor Board must be construed as a reference to the Authority, unless such construction is clearly inappropriate.

109 Board established in terms of Eastern Cape Liquor Act, 2003

The members of the Eastern Cape Liquor Board established in terms of the Eastern Cape Liquor Act, 2003 continue in office for the period of their appointment in terms of the Eastern Cape Liquor Act, 2003 and the MEC must call for nominations in terms of section 15 of this Act six months before the expiry of their term of office in terms of that Act.

110 Legal proceedings and internal proceedings and investigations

(1) All criminal proceedings which immediately prior to the commencement of this Act were instituted in terms of the provisions of the Eastern Cape Liquor Act, 2003, and which proceedings have not been concluded before the commencement of this Act, must be continued and concluded, in all respects as if this Act had not been passed.

(2) No provision of this Act affects any civil matter pending at the commencement of this Act, and such matter must be continued and concluded in every respect as if this Act had not been passed.

(3) A civil matter is, for the purposes of this section, deemed to be pending if, at the commencement of this Act, summons had been issued but judgment had not been given, and to be concluded when judgment is given.

(4) Any internal hearing, investigation or disciplinary proceedings or process instituted by the Eastern Cape Liquor Board which is pending at the date of commencement of this Act, may be continued or instituted as if this Act had not been passed.

111 Financial, administrative and other records of Eastern Cape Liquor Board

All financial, administrative and other records of the Eastern Cape Liquor Board must be transferred to the Authority.

112 Employees of Eastern Cape Liquor Board

(1) A person who, immediately before the commencement of this Act, was in the employ of the Eastern Cape Liquor Board is transferred to the employ of the Authority with the retention of the salary, allowances and other conditions of service which applied in respect of that person before the commencement of the Act and is deemed to be appointed under this Act.

(2) The salary, allowances and other conditions of service of such person is regarded as having been determined under this Act, and any leave, pension or other benefits which have accrued in the person's favour by virtue of the person's service with the Eastern Cape Liquor Board is regarded as having been accrued in the person's favour by virtue of service with the Authority.

(3) Subject to the provisions of this Act, any -

- (a) law regarding any condition of service;
- (b) measure regarding the duties, functions and powers; or
- (c) arrangement regarding any administrative function,

which applied to a person in the employ of the Eastern Cape Liquor Board immediately before the date of commencement of this Act, remain in force until amended by the Authority and the employee concerned.

113 Investigations and law enforcement activities

Any investigation and law enforcement activity undertaken in terms of the Eastern Cape Liquor Act, 2003 is deemed to be undertaken in terms of the provisions of this Act for the purposes of prosecution and findings of the court.

114 Exemption, approval, licence or registration

Any licence that was deemed to be a registration or registration effected in terms of the Eastern Cape Liquor Act, and in force immediately before the date of commencement of this Act, remains valid for the period of validity of that licence until such time as it is renewed in terms of this Act.

115 General

(1) From the date of commencement of this Act, all assets, rights, obligations and liabilities of the Eastern Cape Liquor Board not referred to in this chapter, vest in the Authority;

(2) Anything done or any decision made or steps taken by the Eastern Cape Liquor Board in terms of any provision of the Eastern Cape Liquor Act, 2003, is deemed to have been done, made or taken, by the Authority and remain valid until repealed or amended by the Authority.

(3) Any levies or fees determined by the Eastern Cape Liquor Board in terms of the Eastern Cape Liquor Act, 2003, before the commencement of this Act are deemed to have been determined under this Act and remain valid until repealed or amended by the Authority .

CHAPTER 11 GENERAL PROVISIONS

116 Limitations on employers

(1) No licence holder may employ any person in or in connection with the sale of liquor who is under the age of 18 years.

(2) Subsection (1) does not apply to any person of or above the age of 16 years who is undergoing or has undergone training in catering services, and who is employed on the premises of the licence holder to whom he or she is duly apprenticed in any capacity.

117 Procedural fairness

Subject to the provisions of this Act, where the Authority takes a decision or any other step of an administrative nature under this Act that affects the rights and duties of an applicant or licence holder, the Authority must -

- (a) make known the nature and effect thereof in a written, printed or electronic manner to that applicant or licence holder in a manner designed to ensure that they acquire full knowledge thereof; and
- (b) comply with any applicable requirement of just administrative action, including the furnishing of reasons for discretionary decisions imposed by, under or by virtue of any law.

118 Limitation of liability

The State, an organ of state, a member of the Board or the Appeal Tribunal or any person in their service or acting on their authority, or any person appointed to exercise any power or to perform any duty in terms of this Act, is not liable in respect of any loss or damage resulting from anything done or not done in good faith in terms of this Act.

119 Rules

- (1) The Authority may, by notice in the *Provincial Gazette*, make rules with regard to -

- (a) any matter relating to the functioning of the Authority or the Board that is necessary to ensure the Authority's efficiency or to promote good order;
 - (b) the duties of employees by virtue of this Act;
 - (c) the form of licences, notices, summonses, appointments and designations, determinations, applications, objections and other documents in terms of this Act;
 - (d) notices of information with regard to the abuse of liquor or any other related matter deemed by it to be in the public interest;
 - (e) the form of any objection in terms of this Act;
 - (f) the manner in which the holder of licence must demarcate areas and keep, display and sell liquor and control access thereto;
 - (g) the volume of liquor which a micro-manufacturer must not exceed;
 - (h) any matter that is required to be determined by rule in terms of this Act;
 - (i) any ancillary or incidental administrative or procedural matter that is necessary to prescribe for the proper implementation or administration of this Act; and
- (2) (a) Before the Authority makes any rule under this section, it must publish a draft of the proposed rule in the *Provincial Gazette* together with a notice calling on interested persons to comment in writing within a period stated in the notice, but the period may not be less than 30 days from the date of publication of the notice.
- (b) If the Authority alters the draft rules as a result of any comment it need not publish those alterations before making the rule.

120 Repeal of laws

The Eastern Cape Liquor Act, 10 of 2003, is hereby repealed.

121 Short title and commencement

(1) This Act is called the Eastern Cape Liquor Authority Act, 2014 and will come into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

(2) The Premier may determine different dates for commencement of different sections or chapters of this Act.

IMPORTANT Information from Government Printing Works

Dear Valued Customers,

Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

Please take note of these guidelines when completing your form.

GPW Business Rules

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format to the email submission address submit.egazette@gpw.gov.za. This means that any notice submissions not on an Adobe electronic form that are submitted to this mailbox will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
3. Notices brought into GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format. This means that any notice submissions not on an Adobe electronic form that are submitted by the customer on electronic media will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
4. All customers who walk in to GPW that wish to submit a notice that is not on an electronic Adobe form will be routed to the Contact Centre where the customer will be taken through the completion of the form by a GPW representative. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of a newspaper the messenger must be referred back to the sender as the submission does not adhere to the submission rules.
5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – www.gpwonline.co.za)
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za)
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address submit.egazette@gpw.gov.za.



Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Also available at the Legal Advisory Services, **Province of the Eastern Cape**, Private Bag X0047, Bisho, 5605.
Tel. (040) 635-0052.