



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

**Provincial Gazette
Igazethi Yephondo
Provinsiale Koerant**

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24 OCTOBER 2016
24 OKTOBER 2016

No. 3754

We all have the power to prevent AIDS



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DEPARTMENT OF HEALTH

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IMPORTANT ANNOUNCEMENT**Closing times for the ORDINARY WEEKLY
EASTERN CAPE PROVINCIAL GAZETTE 2016**

The closing time is 15:00 sharp on the following days:

- 22 April 2016, Friday for the issue of Monday 02 May 2016
- 29 April 2016, Friday for the issue of Monday 09 May 2016
- 09 May 2016, Monday for the issue of Monday 16 May 2016
- 16 May 2016, Monday for the issue of Monday 23 May 2016
- 23 May 2016, Monday for the issue of Monday 30 May 2016
- 30 May 2016, Monday for the issue of Monday 06 June 2016
- 06 June 2016, Monday for the issue of Monday 13 June 2016
- 10 June 2016, Friday for the issue of Monday 20 June 2016
- 20 June 2016, Monday for the issue of Monday 27 June 2016
- 27 June 2016, Monday for the issue of Monday 04 July 2016
- 04 July 2016, Monday for the issue of Monday 11 July 2016
- 11 July 2016, Monday for the issue of Monday 18 July 2016
- 18 July 2016, Monday for the issue of Monday 25 July 2016
- 25 July 2016, Monday for the issue of Monday 01 August 2016
- 01 August 2016, Monday for the issue of Monday 08 August 2016
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- 31 October 2016, Monday for the issue of Monday 07 November 2016
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- 19 December 2016, Monday for the issue of Monday 26 December 2016
- 23 December 2016, Friday for the issue of Monday 02 January 2017

LIST OF TARIFF RATES FOR PUBLICATION OF NOTICES

COMMENCEMENT: 1 APRIL 2016

NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1000 per full page, pro-rated based on the above categories.

| Pricing for National, Provincial - Variable Priced Notices | | |
|--|--------------------------|---------------|
| Notice Type | Page Space | New Price (R) |
| Ordinary National, Provincial | 1/4 - Quarter Page | 250.00 |
| Ordinary National, Provincial | 2/4 - Half Page | 500.00 |
| Ordinary National, Provincial | 3/4 - Three Quarter Page | 750.00 |
| Ordinary National, Provincial | 4/4 - Full Page | 1000.00 |

EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3000** per page.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

The **Government Printing Works (GPW)** has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic *Adobe Forms*. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

CLOSING TIMES FOR ACCEPTANCE OF NOTICES

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.
2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website www.gpwonline.co.za

All re-submissions will be subject to the standard cut-off times.

All notices received after the closing time will be rejected.

| Government Gazette Type | Publication Frequency | Publication Date | Submission Deadline | Cancellations Deadline |
|---|-------------------------------------|--|--|--|
| National Gazette | Weekly | Friday | Friday 15h00 for next Friday | Tuesday, 12h00 - 3 days prior to publication |
| Regulation Gazette | Weekly | Friday | Friday 15h00, to be published the following Friday | Tuesday, 12h00 - 3 days prior to publication |
| Petrol Price Gazette | As required | First Wednesday of the month | One week before publication | 3 days prior to publication |
| Road Carrier Permits | Weekly | Friday | Thursday 15h00, to be published the following Friday | 3 days prior to publication |
| Unclaimed Monies (justice, labour or lawyers) | January / As required 2 per year | Any | 15 January / As required | 3 days prior to publication |
| Parliament (acts, white paper, green paper) | As required | Any | | 3 days prior to publication |
| Manuals | As required | Any | None | None |
| State of Budget (National Treasury) | Monthly | Any | 7 days prior to publication | 3 days prior to publication |
| Legal Gazettes A, B and C | Weekly | Friday | One week before publication | Tuesday, 12h00 - 3 days prior to publication |
| Tender Bulletin | Weekly | Friday | Friday 15h00 for next Friday | Tuesday, 12h00 - 3 days prior to publication |
| Gauteng | Weekly | Wednesday | Two weeks before publication | 3 days after submission deadline |
| Eastern Cape | Weekly | Monday | One week before publication | 3 days prior to publication |
| Northern Cape | Weekly | Monday | One week before publication | 3 days prior to publication |
| North West | Weekly | Tuesday | One week before publication | 3 days prior to publication |
| KwaZulu-Natal | Weekly | Thursday | One week before publication | 3 days prior to publication |
| Limpopo | Weekly | Friday | One week before publication | 3 days prior to publication |
| Mpumalanga | Weekly | Friday | One week before publication | 3 days prior to publication |
| Gauteng Liquor License Gazette | Monthly | Wednesday before the First Friday of the month | Two weeks before publication | 3 days after submission deadline |
| Northern Cape Liquor License Gazette | Monthly | First Friday of the month | Two weeks before publication | 3 days after submission deadline |
| National Liquor License Gazette | Monthly | First Friday of the month | Two weeks before publication | 3 days after submission deadline |
| Mpumalanga Liquor License Gazette | 2 per month | Second & Fourth Friday | One week before | 3 days prior to publication |

GOVERNMENT PRINTING WORKS - BUSINESS RULES**NOTICE SUBMISSION PROCESS**

3. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website www.gpwonline.co.za.
4. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
5. The completed electronic *Adobe* form has to be submitted via email to submit.egazette@gpw.gov.za. The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
6. Each notice submission should be sent as a single email. The email should contain **all documentation relating to a particular notice submission**, each as a separate attachment:
 - 6.1. Electronically completed *Adobe* form, specific to the type of notice that is to be placed.
 - 6.1.1. For National *Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
 - 6.1.2. The notice content (body copy) **MUST** be a separate attachment.
 - 6.2. Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
 - 6.3. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should also be attached as a separate attachment. (See specifications below, point 11).
 - 6.4. Any additional notice information if applicable.
7. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.
8. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE**.
9. Notices brought to **GPW** by "walk-in" customers on electronic media can only be submitted in *Adobe* electronic form format. All "walk-in" customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.
10. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**COPY (SEPARATE NOTICE CONTENT DOCUMENT)**

11. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03
 - 11.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.

The content document should contain only one notice. (You may include the different translations of the same notice in the same document).
 - 11.2. The notice should be set on an A4 page, with margins and fonts set as follows:

Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

CANCELLATIONS

12. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.
13. Requests for cancellation must be sent by the original sender of the notice and must be accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

14. With effect from 01 October 2015, **GPW** will not longer accept amendments to notices. The cancellation process will need to be followed according to the deadline and a new notice submitted thereafter for the next available publication date.

REJECTIONS

15. All notices not meeting the submission rules 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). Reasons for rejections include the following:
 - 15.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
 - 15.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
 - 15.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
 - 15.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**APPROVAL OF NOTICES**

16. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.
17. No amendments will be accepted in respect to separate notice content that was sent with a Z95 or Z95Prov notice submissions. The copy of notice in layout format (previously known as proof-out) is only provided where requested, for Advertiser to see the notice in final Gazette layout. Should they find that the information submitted was incorrect, they should request for a notice cancellation and resubmit the corrected notice, subject to standard submission deadlines. The cancellation is also subject to the stages in the publishing process, i.e. If cancellation is received when production (printing process) has commenced, then the notice cannot be cancelled.

GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY

18. The Government Printer will assume no liability in respect of—
 - 18.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;
 - 18.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
 - 18.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

LIABILITY OF ADVERTISER

19. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

CUSTOMER INQUIRIES

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While **GPW** deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a 2-working day turnaround time for processing notices received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

20. Requests for information, quotations and inquiries must be sent to the Contact Centre ONLY.
21. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

PAYMENT OF COST

22. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
23. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
24. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: info.egazette@gpw.gov.za before publication.
25. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
26. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.
27. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

PROOF OF PUBLICATION

28. Copies of any of the *Government Gazette* or *Provincial Gazette* can be downloaded from the **Government Printing Works** website www.gpwonline.co.za free of charge, should a proof of publication be required.
29. Printed copies may be ordered from the Publications department at the ruling price. The **Government Printing Works** will assume no liability for any failure to post or for any delay in despatching of such *Government Gazette(s)*.

GOVERNMENT PRINTING WORKS CONTACT INFORMATION

Physical Address:

Government Printing Works
149 Bosman Street
Pretoria

Postal Address:

Private Bag X85
Pretoria
0001

GPW Banking Details:

Bank: ABSA Bosman Street
Account No.: 405 7114 016
Branch Code: 632-005

For Gazette and Notice submissions: Gazette Submissions:

For queries and quotations, contact: Gazette Contact Centre:

E-mail: submit.egazette@gpw.gov.za

E-mail: info.egazette@gpw.gov.za

Tel: 012-748 6200

Contact person for subscribers: Mrs M. Toka:

E-mail: subscriptions@gpw.gov.za

Tel: 012-748-6066 / 6060 / 6058

Fax: 012-323-9574

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 233 OF 2016**EASTERN CAPE LIQUOR AUTHORITY BILL, 2016**

I, S. Somyo, the Member of Executive Council of Economic Development, Environmental Affairs and Tourism Eastern Cape do hereby publish the Eastern Cape Liquor Authority Bill , 2016, in terms of Rule 147 of the Standing Rules of Legislature, for public comment..

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
Attention: Ms Ronel de Bruin,
Ronel.debruin@dedea.gov.za
Tel: 043 605 7114

OR

Hand Deliver to:

2nd Floor, Beacon Hill
Cnr of Hargreaves & Hock ley Close
King Williams Town

Attention: Ms Ronel de Bruin,
Ronel.debruin@dedea.gov.za
Tel: 043 605 7114

HON: SAKUMZI SOMYO
MEC OF ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM

PROVINCE OF THE EASTERN CAPE

EASTERN CAPE LIQUOR AUTHORITY BILL, 2016

(As introduced)

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

BILL

To provide for licensing, regulation, and control of the retail sale and micro-manufacture of liquor for retail sale in the Eastern Cape Province; to provide for the establishment of the Eastern Cape Liquor Authority; to establish an appeal tribunal; and to provide for matters incidental thereto.

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CHAPTER 1

DEFINITIONS, OBJECTS AND APPLICATION OF ACT

1 Definitions

In this Act, unless the context otherwise indicates-

“Appeal Tribunal” means the Eastern Cape Appeal Tribunal established in terms of section 56;

“Authority” means the Eastern Cape Liquor Authority established in terms of section 4, including a committee or structure with delegated powers to perform one or more of the powers and functions of the Authority;

"beer" means beer as defined in the National Liquor Act;

"Board" means the Board of Directors referred to in section 4(2);

“CEO” means the chief executive officer of the Authority appointed in terms of section 22;

"chairperson" means the person appointed or designated in terms of section 12 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 distribute as defined in the National Liquor Act;

"**impotable substance**" means any substance that is unsafe for human consumption;

"**inspector**" means an inspector appointed or designated in terms of section 63;

"**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;

"**licence**" means a liquor licence issued in terms of this Act;

"**licensee**" means a person to whom a licence has been issued or who is deemed to be a licensee 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 liquor as defined in the National Liquor Act;

"**liquor product**" means a liquor product as defined in the Liquor Products Act

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

"**manufacture**" manufacture as defined in the National Liquor Act;

"**methylated spirit**" means methylated spirit as defined in the National Liquor 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;

“**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 Liquor 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) and Regulations issued in terms thereof;

“**Regulation**” means a regulation made under this Act;

“**retailer**” means a person licensed to sell liquor or make liquor available for sale, for the purpose of consumption;

“**SAPS**” means the South African Police Service

“**sell**” means sell as defined in the National Liquor Act;

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

“**special event**” means a fund raising event in aid of an educational or welfare organisation, any exhibition, sports meeting, cultural gathering, or artistic performance

“**traditional African beer**” means traditional African beer as defined in the National Liquor Act;

“**traditional African beer powder**” means traditional African beer powder as defined in the National Liquor Act;

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

2 Objects of Act

The objects of this Act are –

- (a) to give effect to the constitutional mandate of the Province regarding the licensing, regulation and control of retail sale and micro-manufacture of liquor;
- (b) to provide for mechanisms to ensure the compliance and enforcement of this Act and the licence conditions;
- (c) to provide for mechanisms aimed at reducing the socio-economic and other effects of alcohol abuse;
- (d) to promote the development of a responsible and sustainable retail and micro-manufacturing liquor industry in a manner that facilitates -
 - (i) the entry of new participants into the industry;
 - (ii) diversity of ownership in the industry; and
 - (iii) an ethos of social responsibility in the industry

3 Application of Act and exemptions

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) a 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 authorized by notice under section 10 of the Liquor Products Act, 1989;
- (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 less 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.

CHAPTER 2

EASTERN CAPE LIQUOR AUTHORITY

4 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, managed by a Board of Directors, subject to the provisions of the Public Finance Management Act.

5 Objectives of Authority

- (1) The objectives of the Authority are to -
 - (a) Licence, control and 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; and
 - (d) promote 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) facilitate intergovernmental coordination;
- (d) implement focused financial and human resource utilisation;
- (e) promote socio-economic growth and transformation within the liquor industry, thereby creating economic opportunities for previously disadvantaged individuals and local communities in the Province; and
- (f) adhere to the good corporate governance principles and resource management requirements contemplated in this Act, the Public Finance Management Act and other applicable laws.

6 Powers and duties of Authority

- (1) The Authority must –
 - (a) administer liquor regulation in the Province
 - (b) develop and maintain a liquor licensing system;
 - (c) consider, process and decide all applications for liquor licensing in terms of this Act;
 - (d) develop and maintain a database of all applications received by it;
 - (e) establish and maintain an inspectorate for purposes of monitoring and compliance;
 - (f) develop and maintain appropriate research and information management systems;
 - (g) determine the staff establishment of the Authority and appoint the CEO as contemplated in section 22, and other employees as contemplated in section 24;
 - (h) open and operate a bank account;

- (i) invest funds of the Authority, subject to the Public Finance Management Act;
 - (j) charge application and other fees for any type of licence; and
 - (k) charge administrative and operational costs.
- (2) The Authority may –
- (a) participate in initiatives and strategies of the Liquor Industry, the Department and other organs of state;
 - (b) identify development opportunities and implement appropriate initiatives and programmes to exploit them;
 - (c) obtain, by agreement, the services of a person, including an organ of state, for the performance of any specific act, task or assignment;
 - (d) 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;
 - (e) borrow money, subject to the Public Finance Management Act;
 - (f) insure against-
 - (i) any loss, damage or risk; or
 - (ii) any liability it may incur in the application of this Act; and
 - (g) exercise any other power and must perform any other duty conferred or imposed on it in terms of this Act.

7 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 CEO and other employees.

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

8 Powers and Responsibilities of Board

(1) The Board must-

(a) provide effective, transparent and accountable corporate governance and conduct effective oversight of the affairs of the Authority.

(b) comply with all applicable legislation and agreements;

(c) at all times act in accordance with the code of conduct for members of the Board as may be prescribed by the MEC;

(d) consider reports submitted to it by Authority;

(e) determine the terms of reference for any of the established committees; and

(f) delegate or assign the necessary powers and duties to a 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.

9 Committees

(1) The Board may establish any committee to assist the Authority 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 determine, subject to subsection (3) or any applicable legislation, the number of members and the terms of reference of each committee.

(3) Employees of the Authority may be appointed as members of a committee.

(4) The Board must designate the chairperson of a committee.

- (5) 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;
 - (c) the member has failed to comply with or breached any legislation regulating the conduct of members; or
 - (d) the member is no longer an employee of the Authority or a member of the Board.

10 Delegations by Board

- (1) The Board must develop a system of delegations, approved by the MEC, to maximise administrative and operational efficiency of the Authority 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, determine governance rules for a committee and appropriating funds, to a committee, the CEO, a member of the Board or an employee of the Authority;
 - (b) delegate the performance of any of its functions to a committee, the CEO, 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 CEO 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 CEO 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 CEO, 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 3

CONSTITUTION, APPOINTMENT AND MEETINGS OF BOARD

11 Constitution of Board

- (1) The Board consists of not more than 7 members appointed by the MEC, of whom:
- (a) five members shall be appointed by the MEC from applications and nominations received as contemplated in section 13 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 is a chartered accountant;
 - (iv) one person who has knowledge of and experience in the liquor industry;
 - (b) one member shall be an official employed by the Department and appointed by the MEC as an *ex officio* member;
 - (c) one member shall be an official employed by the Eastern Cape Provincial Treasury and appointed by the MEC as an *ex officio* member; and
 - (d) one member shall be the CEO 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.

12 Chairperson and deputy chairperson

- (1) The MEC must, from amongst the appointed Board members, 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.

13 Nomination and appointment procedure

- (1) The MEC must, at least 60 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 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) An 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 11(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 14;
 - (e) a disclosure of the information contemplated in section 18; 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 11(1);
 - (b) the need for appointing persons disadvantaged by unfair discrimination;
 - (c) the geographic spread in the Province; and
 - (d) the need to ensure that the Board is composed of persons covering a broad range of appropriate experience and expertise,
- (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.

14 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, a 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 11(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 18.

15 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 CEO 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 14 to be a member; or

(b) is removed from office by the MEC in terms of section 16.

16 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 for the period until a new Board has been appointed.
- (4) The MEC may appoint the Interim Board in his or her discretion and sections 11 and 13 shall not apply to the appointment of members of the Interim 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.
- (7) The MEC must invite applications or nominations for persons to be appointed to the ensuing term of office of the Board in terms of section 13 Board within 60 days after the dissolution of the Board.

17 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, within 30 days 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.
- (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.

18 Disclosure of interest

(1) A person who has a direct or indirect financial interest in the liquor industry, or 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, may be appointed to and remain a member of the Board, 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 or the Authority, it appears that a 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 a 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 or the Authority is held or in any manner whatsoever participates in the proceedings of the Board or the Authority, the relevant proceedings of the Board or the Authority shall be null and void.

19 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 2 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.

20 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 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) A person who is not a Board member may attend and take part in a meeting of the Board, if the Board approves the attendance, but such person may not vote.
- (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.

21 Decisions of Board

- (1) A decision of the majority of Board members present at a 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 in terms of this Act.

CHAPTER 4 CHIEF EXECUTIVE OFFICER AND OTHER STAFF OF AUTHORITY

22 Appointment of CEO

- (1) The Board must, in consultation with the MEC –
 - (a) appoint a CEO;
 - (b) determine the period of office of the CEO; and
 - (c) determine the conditions of appointment of the CEO.
- (2) The CEO 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 Board, in consultation with the MEC may terminate the CEO's employment in accordance with applicable employment and labour law.
- (4) The CEO must be paid the remuneration and allowances as may be determined by the Board in consultation with the MEC and the Member of the Executive Council responsible for finance.

23 Functions of CEO

- (1) The CEO is an *ex officio* member and secretary of the Board without voting powers.
- (2) The CEO is the head of the Authority's administration and, subject to the direction of the Board, is responsible for-
 - (a) the financial and administrative management of the Authority;
 - (b) the compilation of a business and financial plan and reports in terms of the Public Finance Management Act, 1999 (Act 1 of 1999)
 - (c) management of the affairs of the Authority;
 - (d) implementing the policies and decisions of the Board;
 - (e) management, recruitment, control and discipline of employees to perform the work necessary to achieve the objects of the Authority; and
 - (f) development of efficient, transparent and cost-effective administrative systems.

(3) The CEO may delegate any original or delegated duty or power to an employee of the Authority in accordance with section 10(1)(c).

(4) If the CEO is for any reason unable to perform any of his or her functions, the Board must appoint another person as acting chief executive officer in writing until the CEO is able to resume those functions.

24 Employees of Authority

(1) The Authority must employ employees of the Authority as determined in the staff establishment to do the administrative, secretarial and other work incidental to the performance of the functions of the Authority.

(2) The Board, in consultation with the MEC and the Member of the Executive Council for Finance, must determine -

- (a) the staff establishment of the Authority;
- (b) a human resources policy for the Authority; and
- (c) the remuneration and conditions of service of the employees of the Authority.

(3) The Board must, in consultation with the CEO, determine a code of conduct, applicable to all employees of the Authority and justiciable for purposes of disciplinary proceedings, to ensure-

- (a) compliance with applicable law;
- (b) the effective, efficient and economical use of the Authority's funds and resources;
- (c) the promotion and maintenance of a high standard of ethics;
- (d) the prevention of conflicts of interest other than those contemplated in section 26;
- (e) the protection of confidential information held by the Authority; and
- (f) professional, honest, impartial, fair, ethical and equitable service.

25 Secondment of staff to Authority

The Authority may utilise the services of persons seconded or transferred from the public service in accordance with the provisions of the Public Service Act, 1994

26 Conflict of interest

(1) An employee of the Authority must, on appointment, submit to the Board a written statement in which it is declared whether or not that employee has a direct or indirect interest, financially or otherwise, which-

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

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

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

(4) An employee of the Authority may not use his or her position or privileges, or confidential information obtained as an employee of the Authority, for personal gain or to improperly benefit another person.

(5) An employee of the Authority who fails or refuses to comply with subsection[s] (1), (2), (3) or (4) is subject to disciplinary measures in terms of applicable employment and labour law, and the Public Finance Management Act, 1999 (Act 1 of 1999).

(6) The CEO must keep a register of the interests of employees disclosed in terms of subsection (1) and must update that register from time to time.

CHAPTER 5

FINANCIAL MATTERS AND REPORTING

27 Financial year

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

28 Revenue of Authority

The revenue of the Authority consists of -

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

29 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.

30 Financial and strategic planning

- (1) The Board, as the accounting authority, must ensure that the Authority's annual budgets, corporate plans and strategic plans are prepared and submitted in accordance with 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.

31 Financial reporting

The Board, as the accounting authority, must ensure that the Authority's quarterly reports, annual reports and audited financial statements are prepared and submitted in accordance with the Public Finance Management Act.

CHAPTER 6 LIQUOR LICENCES

Part 1: Categories of licences

32 Categories of licences

- (1) An application for a liquor licence or permit in terms of this Act may be made in respect of the following categories –
 - (a) a licence for the micro-manufacture of liquor for the purpose of trade;

- (b) a licence for the sale of liquor for consumption on the premises where the liquor is sold;
 - (c) a licence for the sale of liquor for consumption off the premises where the liquor is sold;
 - (d) in exceptional circumstances, that in the opinion of the authority would not lead to the abuse of alcohol, or a deviation of the conditions of on consumption licences, a licence for the sale of liquor for consumption both on and off the premises where the liquor is sold;
 - (e) a licence for the sale of liquor for consumption on or off the premises upon which liquor is sold at special events;
 - (f) a temporary liquor licence for the sale of liquor for consumption on or off the premises upon which liquor is sold; and
 - (g) a licence for the sale of liquor for consumption on or off the premises upon which liquor is sold at special events,
- (2) The MEC may prescribe further categories or sub-categories of licences or permits.

Part 2: Conditions applicable to licences

33 Standard licence conditions

- (1) It must be a condition of every licence for the consumption of liquor on the premises where the liquor is sold, that all liquor sold must be consumed on the licensed premises only and that no liquor sold may be removed from the licensed premises.
- (2) It must be a condition of every licence for consumption of liquor off the licensed premises that no container containing liquor may be opened and no liquor may be consumed on the licensed premises except for tasting purposes as approved by the Authority.
- (3) A licensee may not let the licence to another person, allow another person to carry on business in terms of the licence or allow another person to use the licensed premises: Provided that a licensee in respect of a licence which includes the right to micro-manufacture must notify the Authority of the licensee's intention to let the licensed premises concerned or part thereof to, or allow the premises to be used by, another person for the purpose of micro-manufacturing.

(4) If premises are licensed for the consumption of liquor both on and off the licensed premises, subsections (1) and (2) do not apply to such premises.

(5) The Authority may at any time after the issue of a licence under section 52, upon application by the licensee or any other interested party, by a notice delivered or tendered to the licensee concerned-

- (a) declare the licence 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; or
- (b) suspend, revoke or amend any condition or declaration imposed or made by him or her or the Authority.

34 Deliveries

(1) It must be a condition of every licence issued for the consumption of liquor off the licensed premises that-

- (a) liquor may not be delivered from any vehicle unless the liquor was ordered from the licensed premises before the dispatch of the liquor and an invoice was issued in the prescribed manner, the original of which was retained on the licensed premises;
- (b) liquor may be delivered only to the address shown on the invoice described in paragraph (a);
- (c) a legible copy of the invoice described in paragraph (a) must be retained in the delivery vehicle from the time of dispatch to the time of delivery of the liquor, when it must be handed to the person accepting delivery; and
- (d) where the quantity of liquor being purchased is above the prescribed threshold, the purchaser must produce his or her identity document and proof of address, and provide contact details as prescribed.

(2) Accepting delivery of liquor purchased from a supplier unaccompanied by an invoice describing the name, address and licence number of the supplier as well as the nature, quantity and purchase price of the liquor supplied, is an offence.

35 Financial interests and letting of licensed premises

(1) A licensee, or any other person with a financial interest in a licensed business, may not, without the prior written consent of the Authority, permit any other person to acquire a financial interest of more than 5% in the licensed business.

- (2) A licensee or any other person with a financial interest in a licensed business who wishes to transfer a financial interest of more than 5% in the licensed business to any other person must apply to the Authority for consent in the prescribed form.
- (3) The Authority may not grant consent in terms of subsection (2) if the person to whom the financial interest is intended to be transferred-
- (a) is disqualified in terms of this Act from holding a licence; or
 - (b) is not of good character.
- (4) The Authority must, within the prescribed period, either refuse the application or grant it.
- (5) The Authority may not grant an application for letting unless it is satisfied that the person to whom the licensed premises or part thereof is intended to be let-
- (a) is not disqualified from holding a licence in terms of this Act;
 - (b) is of good character; or
 - (c) is or will be suitably educated and trained, or will have in his or her employ one or more employees who are or will be suitably educated and trained to manage the licensed business.

36 Management

- (1) The Authority must, unless the applicant is a natural person, when granting a licence, approve the appointment of a natural person nominated by the applicant, and who is resident in the Province, as manager of the licensed business.
- (2) A licensee who is not a natural person may at any time, and in the prescribed manner, apply for the appointment of a natural person resident in the Province to be the manager of the licensed business, in which event the Authority may approve such person's appointment as manager.
- (3) The Authority may not approve the appointment as manager of a person who is disqualified from holding a liquor licence in terms of section 35 or who is not of good character.
- (4) A manager whose appointment has been approved in terms of this section is responsible for the management of the business and is subject to the same duties, obligations and liabilities as the licensee.

- (5) The approval of the appointment of a manager in terms of this section does not release the licensee from any duty, obligation or liability imposed upon it by this Act or in terms of the conditions of the licence.
- (6) The approval of the appointment of a manager in terms of subsection (1) or (2) remains valid until the appointment of a new manager.
- (7) If a person, whose appointment as a manager has been approved in terms of subsection (1) or (2), ceases to manage the licensed business or becomes disqualified from doing so, the licensee must, within thirty (30) days from such event, apply in terms of subsection (2) for the approval of the appointment of a manager in his or her place.
- (8) If a licensee fails to comply with subsection (9), its licence may be suspended in terms of section 55(1)(a).

37 Alteration of licensed premises or nature of business

(1) Except with the prior written consent of the Authority granted upon application to the Authority in the prescribed form and upon payment of the prescribed fee, a licensee may not-

- (a) carry out any structural alteration, addition, reconstruction or extension of or to the licensed premises;
- (b) materially change the nature of the business in respect of which a licence was granted from that described in the application considered by the Authority when granting the licence; or
- (c) conduct his, her or its business under the licence on premises on which any other business, including a business to which any other licence relates, or any trade or occupation is carried on or pursued, unless the Authority, at any time when the matter may in his or her opinion rightly be raised, determines otherwise in a particular case.

(2) The consent in terms of subsection (1)(a) must not be issued until the applicant, within the prescribed period, lodges proof to the satisfaction of the Authority that he or she has the right to alter the premises concerned for the purpose as contemplated in the application.

38 Minors

- (1) No person may sell liquor to a minor.

(2) No person may give or supply liquor to a minor or allow such a minor in his or her care or under his or her supervision to consume liquor, except where it is given for the purpose of worship associated with the celebration of a religious observance.

(3) A licensee or a manager, as the case may be, may not allow a minor to consume liquor on the licensed premises.

(4) A licensee or a manager, as the case may be, may not allow a minor to be in a part of licensed premises in which such a person may not be in terms of this Act or in terms of a condition of the licence.

(5) A minor may not obtain or consume liquor in contravention of this Act or mislead any person regarding his or her age in order to obtain or consume liquor or gain access to parts of licensed premises which such a person may not enter.

39 Employers and employees

(1) A person may not employ a minor in connection with the sale or supply of liquor.

(2) An employer may not-

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

40 Access to licensed premises

(1) A licensee may not permit a minor to enter a restricted area.

(2) A restricted area is-

- (a) a room or any place on licensed premises where liquor is sold over a counter, except when meals are being served to diners seated at tables in such a room or place;
- (b) a room or place which the Authority has demarcated as an area in which minors are not allowed to be; and

(c) premises, not being a retail food store, licensed only for the sale of liquor for consumption off the licensed premises.

(3) A minor may have access to a restricted area if accompanied either by a parent or a guardian or by an adult with the consent of a parent or a guardian.

(4) Every restricted area must be indicated as such in a manner as prescribed.

41 Storing of liquor

(1) A licensee must store his, her or its liquor on the licensed premises or in such other or additional place within the Province as may be approved by the Authority when granting a licence or, at any time thereafter, by the Authority on application.

(2) A licensee may not sell, supply or allow the consumption of liquor in or from such other or additional place of storage.

42 Place of sale

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

(2) Notwithstanding the provisions of this section, a licensee may advertise the sale of liquor and solicit and receive orders for the purchase of liquor elsewhere than on the licensed premises.

43 Quantity of liquor sold and keeping of records

(1) A licensee must keep, in the prescribed manner, a record of all liquor sold for consumption off the licensed premises.

(2) No person, other than a licensee, may purchase, and a licensee may not sell to one person, in a single day for consumption off the licensed premises, more liquor than a quantity, which the MEC may prescribe, without the prior written consent of the Authority.

(3) A person who is not licensed or authorised to sell liquor may not at any time have in his or her possession or under his or her control more liquor than the quantity prescribed in terms of subsection (2), except with the consent provided for in that subsection.

44 Prohibited substances

(1) A person may not micro-manufacture, sell or supply any substance under the name of any liquor, if that substance is not liquor as defined in this Act.

(2) A person may not micro-manufacture, sell or supply as liquor any impotable substance, add an impotable substance to liquor, or sell or supply any liquor to which an impotable substance has been added.

Part 3: Applications for new liquor licences

45 Submission of application

(1) An applicant must submit an application for a new liquor licence to the Authority on the prescribed form and compliant with this Act.

(2) The Authority must afford the public the opportunity to, within a period to be prescribed, -

- (a) inspect or obtain a copy of the application; and
- (b) lodge views, comments and objections regarding the application.

46 Application requirements for liquor licence

An application for a liquor licence must be on the prescribed form and must be accompanied by -

- (a) a detailed written motivation in support of the licence application;
- (b) a site 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, point of service areas, construction material and any other requirements which may be prescribed;
- (c) a 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.
- (e) a Police Clearance report from SAPS 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, 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 as prescribed;
- (i) proof of a right to lawful occupation of the premises;
- (j) proof of payment of the prescribed application fee;
- (k) an original valid tax registration certificate issued by the South African Revenue Services; and
- (l) any other document, report, certificate or information as may be prescribed.

47 Consideration of applications by Authority

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

(2) The Authority must, when considering the applications, take into cognisance of all reports, documentation and representations lodged.

(3) After consideration of the application and all relevant factors, including the criteria set out below, the Authority must:

- (a) approve;
- (b) approve subject to conditions; or
- (c) refuse,

the application for a liquor licence and notify the applicant in writing of the Authority's decision within the prescribed period.

48 Criteria for granting licences

The Authority may not grant a licence, unless it is satisfied on a balance of probabilities that-

- (a) the applicant is of good standing and is fit to be a licensee 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 5000-00; or
 - (iv) imprisonment without an option of a fine or both imprisonment and fine.
- (b) the granting thereof is not against the 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;
- (c) the granting thereof shall promote the diversity of ownership in the liquor industry and restrict the nature of anti-competitive behaviour within the liquor industry; and
- (d) the applicant is of good character, and not disqualified from holding a licence in terms of this Act;
- (e) the premises on which the sale or consumption of liquor will take place are or will upon completion be suitable for use by the applicant for the purposes of the licence;
- (f) the applicant has the right to occupy the proposed licensed premises; and
- (g) the granting of the application does not prejudice, in the area as prescribed -
- (i) the residents of a residential area;
 - (ii) the residents of an institution for the aged or frail;
 - (iii) the learners of an educational institution who are minors;
 - (iv) the patients of an institution for drug or alcohol related dependencies; or
 - (v) the congregants of a religious institution located in the vicinity of the proposed licensed premises.

49 Application for Special Events Licence

- (1) A person may apply for a special event licence in the prescribed manner..
- (2) An application for the special event licence must be made at least 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 SAPS within the relevant jurisdiction.
- (5) A special event licence may only be issued for a period not longer than fourteen days, unless good cause is shown to extend for a further period not exceeding seven days.
- (6) In considering the application, the Authority may -
 - (a) approve the site plan;
 - (b) restrict the sale or consumption of liquor to designated areas on the site; and
 - (c) determine the kind of liquor sold.
- (7) 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.
- (8) Such conditions must be set out in the licence.
- (9) 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.

50 Objections

A member of the public, association, municipality, SAPS, 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 prescribed form 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; or
- (c) requesting further information regarding such application and or the operations of the applicant should the licence be issued.

51 Hearing of applications

- (1) The Authority may convene a hearing to consider an 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, may 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 4: Issue, transfer, renewal and variation, suspension or cancellation of licence

52 Licence

- (1) When the Authority approves an application for a liquor licence it must, subject to subsection (2), issue a licence in the prescribed format, which must include the -
 - (a) full names and trading name of the licensee;
 - (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 must be renewed;
 - (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 58.

- (4) A liquor licence authorises the holder thereof to commence trading.
- (5) The licensee must -
 - (a) indicate the liquor licence number on all trading documents relating to the trade of liquor; and
 - (b) display the original licence at the premises in respect of which the licence is issued in the prescribed manner.
- (6) When a licence is lost, stolen, damaged or destroyed, the licensee must immediately report the matter to the Authority and must, within 14 days on the prescribed form, apply for a duplicate licence.
- (7) The Authority may issue a duplicate licence upon payment of the prescribed duplicate licence fee.

53 Transfer of Licence

An application for the transfer of a liquor licence must be on the prescribed form and must be accompanied by –

- (a) a detailed written motivation in support of the application;
- (b) a certified copy of the existing licence;
- (c) a Police Clearance report from SAPS indicating whether or not a person has been convicted of a criminal offence without an option of a fine in the last 10 years;
- (d) 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 as prescribed;
- (i) proof of a right to lawful occupation of the premises;
- (j) proof of payment of the prescribed fee;
- (k) an original valid tax registration certificate issued by the South African Revenue Services; and
- (l) any other document, report, certificate or information as may be prescribed.

54 Renewal of licence

- (1) A 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 as prescribed and must be accompanied by the prescribed renewal fee.
- (3) The Authority may refuse to renew a licence if the licensee—
 - (a) became disqualified to hold the licence in terms of this Act; or
 - (b) failed to comply with a notice of non-compliance issued in terms of section 70; or
 - (c) the provisions of section 71((2) apply.
- (4) A licence issued prior to the commencement of this Act must be renewed in terms of this section.

Part 5: Appeals**55 Appeal Tribunal**

- (1) The MEC must, for such term as he or she may determine, appoint, on a part-time basis, a person with legal qualifications equivalent to those required for admission as an attorney, or an advocate of the High Court of South Africa, and with experience in the administration of justice, to act as an Appeal Tribunal to adjudicate upon appeals against or applications for the review of the decisions of the Authority in terms of this Act.
- (2) The MEC must prescribe the process and procedure to be followed by the Appeal Tribunal.

Part 6: Deceased and insolvent estates, curatorship and voluntary cancellation**56 Death or incapacity of licensees**

- (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 licensee 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) A person may apply in the manner and form as prescribed to the Authority for the appointment of a person to conduct the licensed activities of the licensee, 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.

57 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 licensee'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 licensee in writing of the date of which the licence was cancelled.

Part 6: Register of licences

58 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 MEC may prescribe the format and manner of keeping the register.

CHAPTER 7 PROHIBITIONS

59 Prohibition on sale and supply of liquor

- (1) A person may not-
- (a) sell liquor to a minor;
 - (b) give or supply liquor to a minor or allow such a person in his or her care or under his or her supervision to consume liquor, except where it is given or supplied in negligible quantities and in the performance of a religious ceremony or service;
 - (c) allow a minor to consume liquor on premises of which he or she is the licenced person or which are under his or her control;

(d) allow a minor to be in a part of the licenced premises upon which such a person may not be in terms of this Act, or in terms of a condition of the licence save for persons who are being trained at such licenced premises; or

(e) sell or supply liquor to any person who is visibly intoxicated, violent, disorderly or under the influence of a drug having a narcotic effect.

(2) A minor may not-

(a) obtain or consume liquor in contravention of this Act; or

(b) mislead any person as to his or her age in order to obtain or consume liquor or to gain access to parts of licenced premises which such person may not enter.

(3) The provisions of this section apply with the necessary changes to the sale or supply of methylated spirits to certain persons.

(4) A person at the premises dispensing liquor must take reasonable steps to ensure the verification of the age of a person who appears to be under the age of eighteen (18) years by requesting an identity document, passport or drivers license before selling, supplying or giving liquor to that person; and

(5) A licensee in terms of this Act must not sell liquor to a manufacturer, distributor, or a wholesaler in liquor.

(6) The Licensee must visibly display in the licensed premises a public notice as prescribed.

(7) A licensee must not employ any person, in connection with the sale of liquor who –

(a) is a minor; or

(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.

60 Prohibition of sale of unhealthy concoctions

(1) A person may not sell, supply, possess, or have custody or control of -

(a) any concoction manufactured by the fermentation of treacle, sugar or other substances and known as isishimiyana, hopana, qediviki, skokiaan, uhali or Barberton, but excluding indigenous qhilika;

(b) any concoction which, though called by another name is similar or substantially similar to any of the concoctions referred to in paragraph (a);

(c) any concoction manufactured by the fermentation of any substance the consumption of which would, in the opinion of the MEC be prejudicial to the health and well-being of the population of the Republic, and specified by him or her by a notice in the Gazette; or

(d) any drink manufactured by the distillation of any concoction referred to in paragraph (a), (b) or (c).

(2) The MEC may at any time by a similar notice withdraw or amend any notice issued under subsection (1)(c).

61 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-naturating, 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

62 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.

(3) A certificate of appointment or designation, in the prescribed form, 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.

63 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 as prescribed;
- (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 Liquor Act;
 - (l) issue a notice of a non-compliance in terms of section 71 in the format as prescribed; and
 - (m) do all things necessary for conducting the inspection or in assisting the Authority to arrive at a decision.
- (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 Liquor Act; and
 - (c) return it as soon as practicable after achieving the purpose for which it was removed.

64 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 an 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.

65 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.

66 Resistance against entry or inspection

- (1) An inspector carrying out a warrant in terms of section 65 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 66, unless permitted in terms of any other law or in the case of an emergency.

67 Inspector may be accompanied

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

68 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.

69 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.

70 Notice of non-compliance

(1) An inspector who on reasonable grounds believes that any provision of this Act has not been complied with, may, subject to subsection (2), issue a notice of non-compliance in the prescribed form to the licensee 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 licensee is required to take in order to comply;
- (d) inform the licensee that he or she has 14 days within which to object to the notice of non-compliance;

- (e) inform the licensee that he or she has the number of days, as prescribed for the type of transgression, 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 this Act in the event of non-compliance with those steps.
- (3) A copy of the notice of non-compliance must, in the prescribed manner, be submitted to the Authority for consideration.

71 Non-compliance with licence obligations and conditions

- (1) The Authority may, after the number of days as prescribed for the type of transgression has expired, and if no objection was lodged against a notice of non-compliance -
- (a) direct compliance by the licensee as contained in the notice of non-compliance;
 - (b) amend or vary the licence conditions; or
 - (c) suspend the licence.
 - (d) Cancel the licence
- (2) If a licensee, or a person in the employ of a licensee, has been served with a notice in terms of section 70 more than three times within one calendar year, it shall be deemed that the licensee did not comply with the requirements stated in the last notice and the provisions of sub-section (1) shall apply.
- (3) When a licence has been cancelled, all the rights, benefits and allowances accruing therefrom lapse immediately.
- (4) 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.
- (5) If, after the expiry of the period referred to in subsection (1)(a), the licensee 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 licensee to SAPS for investigation.

72 Compliance certificate

(1) An inspector who is satisfied that the licensee 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 as prescribed, 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.

73 Objection to notice of non-compliance

(1) A person issued with a notice of non-compliance may, in the described manner, object to it by making representations to the Authority within 7 days of receipt of that notice.

(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.

74 Review or appeal of decision of Authority

A decision of the Authority to cancel a licence as contemplated in section 71 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).

75 Closing of licensed premises

(1) Where the Authority or an inspector on reasonable grounds believes that –

- (a) public disturbance;
- (b) disorder;
- (c) non-compliance with the Act and licence conditions;;
- (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 licensee or the manager or agent of the licensee to close the licensed premises for the period directed by the inspector or the Authority.

(2) The licensee, manager or agent of the licensee, 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).

CHAPTER 9 OFFENCES AND PENALTIES

76 General offences

It is an offence 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 licensee, 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) fail to comply with or contravene any provision of this Act.

77 Offences by licensees in general

It is an offence by a licensee 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 minor, 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.

78 Offences regarding trading in liquor

(1) No licensee person may enter into or be a party to any agreement, understanding or condition whereby that or any other licensee 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 licensee whether to the exclusion wholly or partly of any other licensee 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 licensee; 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 licensee may fix, maintain or establish the price at which another licensee must sell any liquor.

79 Offences relating to Authority

A person is guilty of an offence if that person -

(a) hinders or interferes with the Authority, the Board, a member of the Authority or an employee of the Authority, in the execution of official duties;

(b) wilfully furnishes to the Authority, the Board, 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.

80 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; or
- (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.

81 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, may order the destruction of that liquor.

82 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

GENERAL AND TRANSITIONAL PROVISIONS

83 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 licensee, the Authority must -

(a) make known the nature and effect thereof in a written, printed or electronic manner to that applicant or licensee 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.

84 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.

85 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, 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.

86 Duties and Powers of the Executive Authority

(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 and which falls within the objectives of this Act.;
- (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.

87 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.

88 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.

89 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.

90 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 13 of this Act six months before the expiry of their term of office in terms of that Act.

91 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.

92 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.

93 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.

94 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.

95 Exemption, approval, licence or registration

Any licence that was deemed to be a licence 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.

96 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.

97 Repeal of laws

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

98 Short title and commencement

(1) This Act is called the Eastern Cape Liquor Authority Act, 2016 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.

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