

NO. 27 OF 1989

[ASSENTED TO 14 MARCH, 1989]

[DATE OF COMMENCEMENT: 2 APRIL, 1990]

(excluding any provision relating to sorghum beer and also s. 192 (1): 3 October, 1996)

(English text signed by the acting State President)

as amended by

Liquor Products Act, No. 60 of 1989

Airports Company Act, No. 44 of 1993

[with effect from 6 August, 1993—see title AVIATION]

Liquor Amendment Act, No. 105 of 1993

Liquor Amendment Act, No. 57 of 1995

ACT

To provide for control over the sale of liquor; and for matters connected therewith.

ARRANGEMENT OF SECTIONS

1. Arrangement of Act

This Act is arranged as follows:-

Chapter 1	<u>Introductory Provisions</u>
Chapter 2	<u>The Liquor Board</u>
Chapter 3	<u>Applications For Licenses</u>
Chapter 4	<u>Disqualification For Licenses</u>
Chapter 5	<u>Issue of Licenses</u>
Chapter 6	<u>General Conditions Applicable To Licenses</u>
Chapter 7	<u>Special Conditions Applicable To On-Consumption Licenses</u>
Chapter 8	<u>Special Conditions Applicable To Off-Consumption Licenses</u>
Chapter 9	<u>Validity Of Licenses</u>
Chapter 10	<u>Transfer Of Licenses</u>
Chapter 11	<u>Removal Of Licenses</u>
Chapter 12	<u>Special Powers In Connection With Sale, Supply And Distribution of Liquor</u>
Chapter 13	<u>Furnishing Of Reasons, Reviews And Appeals</u>
Chapter 14	<u>Prohibited And Controlled Liquids</u>
Chapter 15	<u>Inspectors And Police Officers</u>
Chapter 16	<u>Judicial And Related Matters</u>
Chapter 17	<u>Miscellaneous Matters</u>
Chapter 18	<u>Transitional Provisions</u>
Schedule 1	<u>Licenses Converted</u>
Schedule 2	<u>Laws Repealed</u>

CHAPTER 1

INTRODUCTORY PROVISIONS

2. [Definitions](#)
3. [Application Of Act](#)
4. [Exemptions](#)

2. Definitions

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

“**alcoholic fruit beverage**” means -

- (a) an alcoholic fruit beverage as defined in section 1 of the Liquor Products Act, 1989; and
 - (b) a specially authorized liquor as defined in section 1 of the Liquor Products Act, 1989, obtained by the alcoholic fermentation of the juice of oranges together with canesugar;
- [Definition of “alcoholic fruit beverage” inserted by s. 32 of Act No. 60 of 1989.]

“**beer**” means the drink manufactured by the fermentation of a mash of malt, with or without cereals, flavoured with hops, or ale, stout or any other drink manufactured as or sold under the name of beer, ale or stout, if it contains more than one per cent by volume of alcohol, but does not include sorghum beer;

“**Board**” means the Liquor Board of a province instituted by section 5; [Definition of “Board” substituted by s. 2 (a) of Act No. 57 of 1995.]

“**brandy**” means the spirit which complies with the requirements prescribed by or under the Liquor Products Act, 1989, for the class of spirit manufactured or sold under the name of brandy; [Definition of “brandy” substituted by s. 32 of Act No. 60 of 1989.]

“**chairperson**” means the chairperson of a Board, and also the deputy chairperson of a Board, or his or her alternate, when he or she is acting as chairperson; [Definition of “chairperson” substituted by s. 2 (b) of Act No. 57 of 1995.]

“**closed day**” means -

- (a) Sunday;
- (b) Good Friday;
- (c) . . [Para. (c) deleted by s. 2 (c) of Act No. 57 of 1995.]
- (d) . . [Para. (d) deleted by s. 2 (c) of Act No. 57 of 1995.]
- (e) Christmas Day;

“**competent authority**” means -

- (a) the Minister;
- (aA) the Premier; [Para. (aA) inserted by s. 2 (d) of Act No. 57 of 1995.]
- (aB) the Member of the Executive Council; [Para. (aB) inserted by s. 2 (d) of Act No. 57 of 1995.]
- (b) the Board;
- (c) the chairperson;
- (d) the magistrate,

as the case may be, by whom any function in terms of this Act is to be performed;

“**controlling interest**” means an interest as defined in section 1 of the Maintenance and Promotion of Competition Act, 1979 (Act No. 96 of 1979);

“**designated police officer**” means a police officer designated under section 139, and also an inspector performing the functions of a designated police officer;

“**exempted person**” means a person who has by or under section 3 (1) (d), (e), (f), (g), (h) or (i) or under section 4 (1) (a), (b), (c), (d) or (e) been exempted from the application of this Act and, in the application of sections 126 (1), 138 (1), 154 (1) (i) and 170, includes a person who has by section 3 (1) (j) been so exempted, to the extent of the exemption concerned;

“**holder**” means the person to whom a licence has been issued or transferred, and also the person who holds or is deemed to hold a licence by virtue of section 39 (3) (a), 118 (1) (a) or 118 (2) or section 118 (1) (a) or 118 (2) as applied by section 118 (3);

“**inspector**” means an inspector designated under section 137;

“**issue**”, with regard to a licence, includes the delivery or dispatch of the licence to the person to whom it has been granted or to his or her agent;

“**licence**” means a licence referred to in section 20, and also a sportsground liquor licence;

“**licensed premises**” means - (a) the premises on which liquor may be sold under a licence (excluding a temporary liquor licence); (b) the place where liquor may be sold under a temporary liquor licence;

“**liquor**” means -

(a) any beer or sorghum beer; **[Para. (a) substituted by s. 32 of Act No. 60 of 1989.]**

(b) any liquor product as defined in section 1 of the Liquor Products Act, 1989; **[Para. (b) substituted by s. 32 of Act No. 60 of 1989.]**

(c) any drink or substance declared to be liquor under subsection (2) (b);

(d) any drink with which liquor contemplated in paragraph (a), (b) or (c) of this definition has been mixed; or

(e) any sweet containing more than two per cent of alcohol by mass, but does not include methylated spirit or medicine which is subject to registration by virtue of a resolution published in terms of section 14 (2) of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);

“**local authority**” . . **[Definition of “local authority” deleted by s. 2 (a) of Act No. 105 of 1993.]**

“**lodger**”, with regard to any licensed premises to which an on-consumption licence relates, means any person other than the holder of the licence concerned or the manager of the business to which the licence relates or a member of the family of that holder or manager or any other person employed in connection with the carrying on of that business, who bona fide lives or sleeps on the licensed premises;

“**magistrate**” means the magistrate of the district in which the premises in respect of which a temporary liquor licence or occasional licence may be issued under this Act, or the licensed or other premises or place contemplated in section 126, are situated; **[Definition of “magistrate” substituted by s. 2 (b) of Act No. 105 of 1993.]**

“**Member of the Executive Council**” means the Member of the Executive Council of a province designated by the Premier concerned to give effect to the provisions of this Act in that province; **[Definition of “Member of the Executive Council” inserted by s. 2 (e) of Act No. 57 of 1995.]**

“**methylated spirit**” means -

(a) spirit denatured in accordance with any law on the denaturation or methylation of spirit;

(b) any other denatured, medicated, perfumed or otherwise treated spirit declared to be methylated spirit under subsection (2) (a);

“**Minister**” means the Minister of Trade and Industry; **[Definition of “Minister” substituted by s. 2 (c) of Act No. 105 of 1993.]**

“**off-consumption licence**” means any licence referred to in section 20 (b);

“**on-consumption licence**” means any licence referred to in section 20 (a), and also a sportsground liquor licence;

“**ordinary meal**” means a meal which does not consist only of refreshments;

“**other fermented beverage**” . . **[Definition of “other fermented beverage” deleted by s. 32 of Act No. 60 of 1989.]**

“**person**” includes a trust;

“**Premier**” means the Premier of a province of the Republic of South Africa; **[Definition of “Premier” inserted by s. 2 (f) of Act No. 57 of 1995.]**

“**premises**” includes a place or building or part of a building on any premises and a vehicle or vessel which is mainly used by tourists;

“**prescribe**” means prescribe by regulation;

“**recorder**” means the recorder of a province designated under section 179; ***[Definition of “recorder” substituted by s. 2 (g) of Act No. 57 of 1995.]***

“**regulation**” means a regulation made under section 182;

“**restricted part**” means a bar on any licensed premises in respect of which an on-consumption licence has been issued, in which liquor is served over a counter and which does not form an integral part of a room where ordinary meals are taken continuously on a daily basis, and also any other part of such licensed premises which is to be treated as such in terms of any condition which has been imposed under this Act by the competent authority in a particular case; ***[Definition of “restricted part” substituted by s. 2 (d) of Act No. 105 of 1993.]***

“**sell**” includes exchange or keep, offer, display, deliver, supply or dispose of for sale, or authorize, direct or allow a sale;

“**sorghum beer**” means -

(a) the drink generally known as sorghum beer and commonly manufactured from grain sorghum, millet or other grain;

or

(b) any other fermented liquor declared to be sorghum beer under subsection (2) (c);

“**spirit**” means a spirit and a spirit-based liquor, as defined in section 1 of the Liquor Products Act, 1989; ***[Definition of “spirit” substituted by s. 32 of Act No. 60 of 1989.]***

“**sportsground liquor licence**” means the licence referred to in section 189;

“**supply**”, with regard to any liquor, means to place a person in possession or control of the liquor for his or her own consumption;

“**this Act**” includes any regulation;

“**wine**” means wine as defined in section 1 of the Liquor Products Act, 1989. ***[Definition of “wine” substituted by s. 32 of Act No. 60 of 1989.]***

(2) The Minister may by a notice in the Gazette -

(a) declare any denatured, medicated, perfumed or otherwise treated spirit other than the spirit contemplated in paragraph (a) of the definition of “methylated spirit” in subsection (1), to be methylated spirit for the purposes of this Act;

(b) declare any drink or substance other than the liquor contemplated in paragraphs (a), (b), (d) and (e) of the definition of “liquor” in subsection (1), to be liquor for the purposes of this Act;

(c) declare any fermented liquor other than the drink contemplated in paragraph (a) of the definition of “sorghum beer” in subsection (1), to be sorghum beer for the purposes of this Act.

(3) The Minister may at any time by a like notice withdraw or amend any declaration made under subsection (2).

3. Application of Act.

(1) This Act shall 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 deputy 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; **[Para. (d) substituted by s. 3 (a) of Act No. 57 of 1995.]**

(e) the manager of a refreshment room maintained for the use of members of a body established by or under any law and having legislative powers, with regard to the sale of liquor in such a refreshment room to members of the body concerned and their bona fide guests, for consumption in that refreshment room;

(f) a person selling liquor under the authority of the Minister of Defence -

(i) to members of the South African National Defence Force on the premises of a trading institution contemplated in section 149 of the Defence Act, 1957 (Act No. 44 of 1957), for consumption on those premises; **[Sub-para. (i) substituted by s. 3 (b) of Act No. 57 of 1995.]**

(ii) to such members and their bona fide guests on the premises of a club or mess so contemplated, for consumption on those premises;

(iii) in connection with a base, camp, station or ship for any part of the South African National Defence Force; **[Sub-para. (iii) substituted by s. 3 (c) of Act No. 57 of 1995.]**

(g) a person selling liquor under the authority of the Minister concerned on premises under the control of the South African Police Service, the Department of Correctional Services or the National Intelligence Service, to members of the institution concerned and their bona fide guests; **[Para. (g) substituted by s. 3 (a) of Act No. 105 of 1993 and by s. 3 (d) of Act No. 57 of 1995.]**

(h) the company as defined in section 1 of the Airports Company Act, 1993, or a person acting on behalf of the said company, with regard to the sale of liquor on the premises of a company airport as defined in section 1 of the said Act, but subject to any regulation that may be made under section 15 (1) (b) of the said Act; **[Para. (h) substituted by s. 35 of Act No. 44 of 1993.]**

(i) . **[Para. (i) deleted by s. 3 (b) of Act No. 105 of 1993.]**

(j) a person who bona fide engages in viticulture, with regard to the sale of wine or brandy which -

(i) is manufactured from grapes produced on land owned or lawfully occupied by him or her or from grapes purchased or otherwise procured by him or her; and

(ii) is manufactured in a cellar on that land or in a central cellar owned or lawfully occupied by him or her,

if that wine or brandy -

(aa) is sold in a quantity of not less than 18 litres in a securely sealed receptacle or receptacles to a manufacturer of vinegar, the holder of a licence or an exempted person; and

(bb) except in the case of a sale to or an order by the holder of a wholesale liquor licence, is sold or ordered before being removed from the cellar concerned; **[Para. (j) amended by s. 32 of Act No. 60 of 1989.]**

(k) the convenor of a bona fide wine-tasting function, with regard to the sale of wine in quantities of less than 200 millilitres at that function lasting not more than two hours, for consumption at the function, to persons of or above the age of 18 years;

(l) a person referred to in a notice under section 10 of the Liquor Products Act, 1989, with regard to the sale of any sacramental beverage under such a notice; **[Para. (l) substituted by s. 32 of Act No. 60 of 1989.]**

(m) a person, with regard to the sale of any spirituous or distilled perfumery or medicated spirit, which perfumery or spirit is not methylated spirit;

(n) the manufacturer of sweets containing more than two per cent by mass of alcohol and manufactured in the Republic, with regard to the sale of those sweets to the holder of a licence or an exempted person.

(2) The Minister may by a notice in the Gazette declare that the provisions of this Act shall not apply to the sale of liquor contemplated in paragraph (d) of the definition of "liquor" in section 2 (1) by or on behalf of such person or on such premises or in such place or in such circumstances or subject to such conditions as may be set out in the notice.

(3) The Minister may at any time by a like notice withdraw or amend any declaration made under subsection (2).

(4) From the commencement of the Liquor Amendment Act, 1995, this Act shall also apply in the former Republics of Transkei, Bophuthatswana, Venda and Ciskei, as well as in the former self-governing territories of Gazankulu, KaNgwane, KwaNdebele, KwaZulu, Lebowa and Qwaqwa. [Sub-s. (4) added by s. 3 (e) of Act No. 57 of 1995.]

4. Exemptions.

(1) The Board may, on application and if circumstances so warrant, declare that this Act, excluding such provisions as it may determine, shall not apply to the sale, by a person named in the declaration, of liquor -

(a) on premises occupied, controlled or maintained by a department of State, including the Department of Posts and Telecommunications;

(b) on premises occupied, controlled or maintained by the Armaments Corporation of South Africa, Limited, or the Atomic Energy Corporation of South Africa, Limited, to employees of the institution concerned and their bona fide guests, for consumption on those premises;

(c) in a restaurant on premises occupied, controlled or maintained by the South African Broadcasting Corporation or any other provider of a public broadcasting service as defined in section 1 (1) of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993) to employees of the institution concerned and their bona fide guests, for consumption in that restaurant; **[Para. (c) substituted by s. 4 (b) of Act No. 57 of 1995.]**

(d) on behalf of a statutory institution on premises in or at a public resort, national park or game or nature reserve;

(e) on behalf of the principal of an educational institution in a restaurant used for the training of persons in catering services on premises occupied, controlled or maintained by the institution concerned, for consumption in that restaurant;

(f) if that person is a bona fide museum and is licensed as a special customs and excise warehouse in terms of Item 810.20.10 of Schedule 8 of the Customs and Excise Act, 1964 (Act No. 91 of 1964);

(g) . **[Para. (g) deleted by s. 4 (c) of Act No. 57 of 1995.]**

(h) . **[Sub-s. (1) amended by s. 4 (a) of Act No. 105 of 1993 and by s. 4 (a) of Act No. 57 of 1995. Para. (h) deleted by s. 4 (c) of Act No. 57 of 1995.]**

(1A) The chairperson may, on application and if the circumstances so warrant, declare that this Act, excluding such provisions as he or she may determine, shall not apply to the sale, by a person named in the declaration, of liquor -

a) if that person is a collector of wine and that liquor consists of his or her collection of wine or any part thereof;

(b) if that person is a licensed auctioneer acting on behalf of a bona fide cultural or welfare organisation, an educational institution, an insurer or a person contemplated in section 3 (1) (b). **[Sub-s. (1A) inserted by s. 4 (b) of Act No. 105 of 1993 and substituted by s. 4 (d) of Act No. 57 of 1995.]**

(2) A declaration issued under subsection (1) or (1A) shall be subject to such conditions set out therein as the Board or the chairperson, as the case may be, may in its or his or her discretion impose. [Sub-s. (2) substituted by s. 4 (e) of Act No. 57 of 1995.]

(3) The Board or the chairperson may at any time after the issue of a declaration under subsection (1) or (1A), by a notice delivered or tendered to the person named in the declaration concerned -

(a) in its or his or her discretion impose such conditions or further conditions as may be set out in the notice, to which the notice shall be subject;

(b) withdraw or amend any condition imposed by it or him or her under this section;

(c) withdraw or amend the declaration. **[Sub-s. (3) substituted by s. 4 (f) of Act No. 57 of 1995.]**

CHAPTER 2

THE LIQUOR BOARD

5. [Institution of the Liquor Board](#)
6. [Functions of Board](#)
- 6A. [Functions of Member of Executive Council](#)
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5. Institution of Liquor Boards.

A separate Liquor Board is hereby instituted for each province of the Republic of South Africa. **[S. 5 substituted by s. 5 (1) of Act No. 57 of 1995.]**

6. Functions of Board.

The Board shall

(a) advise the Member of the Executive Council or furnish a report or recommendation to the Member of the Executive Council on any matter referred to the Board by the Member of the Executive Council for consideration and arising from the application of this Act or relating to the distribution, or control over the distribution, of liquor; **[Para. (a) substituted by s. 5 of Act No. 105 of 1993 and by s. 6 of Act No. 57 of 1995.]**

(b) perform such other functions as may be assigned to it in terms of this Act.

6A. Functions of Member of Executive Council.

The Member of the Executive Council shall

(a) advise the Minister or the Premier, or furnish a report or recommendation to the Minister or the Premier, on any matter referred to him or her by the Minister or the Premier for consideration and arising from the application of this Act or relating to the distribution, or control over the distribution, of liquor; and

(b) perform such other functions as may be assigned to him or her in terms of this Act. **[S. 6A inserted by s.7 of Act No. 57 of 1995.]**

7. Constitution of Board.

(1) A Board shall consist of -

(a) two persons in the employ of the State appointed by the Member of the Executive Council, one as chairperson and the other as deputy chairperson;

(c) a person nominated by the Provincial Commissioner of the South African Police Service; and

(d) two other members appointed by the Member of the Executive Council for a period of not more than two years.

(2) No person shall be appointed as chairperson or deputy chairperson under subsection (1) or as an alternate to the deputy chairperson under subsection (3) unless he or she possesses such qualification in law and such experience in the administration of justice as renders him or her suitable for appointment as such.

(3) The Member of the Executive Council may at any time appoint an officer in the public service as an alternate to the deputy chairperson to perform the functions of the deputy chairperson when he or she is not available to perform those functions.

(4) A person whose term of office as a member has expired, shall be eligible for reappointment.

(5) When a casual vacancy occurs in the ranks of the members appointed under subsection (1) (c), the Member of the Executive Council shall fill the vacancy by the appointment of another member for the unexpired part of the period for which his or her predecessor was appointed.

(6) If there are sound reasons for doing so, the Member of the Executive Council may at any time remove from office any member appointed under subsection (1) (c). [S. 7 substituted by s. 8 of Act No. 57 of 1995.]

8. Unavailability or vacancy in office of chairperson.

When the chairperson is not available to perform his or her functions as chairperson or if the office of chairperson is vacant, the deputy chairperson shall, during the unavailability of the chairperson or until a chairperson is appointed, act as chairperson and perform all the functions assigned to the chairperson by this Act.

9. Co-opting of persons.

(1) If the chairperson is of the opinion that a particular person is able to assist the Board in the consideration of a particular matter by the Board, he or she may co-opt that person for that purpose.

(2) A person so co-opted shall not be entitled to vote at any meeting of the Board.

10. Disqualification of members.

A member of the Board shall not sit on the Board when -

(a) any premises in respect of which any application is made and of which he or she or his or her spouse or child is the owner, mortgagee, lessor or lessee;

(b) any applicant contemplated in section 11 (3) (a), objector or person who has made representations in support of an application and of whom he or she or his or her spouse or child is a partner, director, manager, agent, officer or employee; or

(c) any business in respect of which any application is made and in which he or she or his or her spouse or child has a direct financial interest, is concerned in the consideration of a matter by the Board.

11. Convening of meetings.

(1) Meetings of the Board shall be convened by the chairperson, and may be adjourned, whether for an indefinite time or until a particular time, if in the opinion of the chairperson circumstances so warrant.

(2) Meetings shall be held or resumed at such times and places as the chairperson may at any time determine.

(3) Subject to subsection (4) of this section, meetings of the Board shall be convened for the consideration of the following matters, namely -

(a) any application contemplated in section 4 (1), 22 (1), 60 (1), 114 (1) or 121 (1); **[Para. (a) substituted by s. 6 of Act No. 105 of 1993 and by s. 9 of Act No. 57 of 1995.]**

(b) any report submitted to the chairperson in terms of section 141 or 142;

(c) any complaint in respect of licensed premises;

(d) any objection to a licence (excluding a temporary liquor licence and occasional licence)

(i) by a person who is ordinarily resident in the district in which the licensed premises concerned are situated; or

(ii) by a holder of a licence (excluding a temporary liquor licence and occasional licence) whose licensed premises are situated in the same district as those in respect of which the licence objected to is held;

(e) representations by any person regarding the distribution or control over the distribution of liquor;

(f) representations by a holder of a licence for the rescission of the suspension of the licence or of any right or privilege which is attached thereto;

(g) any matter referred to the Board under section 124; or

(h) any other matter which the Board may or shall consider in terms of this Act.

(4) A meeting of the Board shall not be convened for the consideration of a matter contemplated in subsection (3) (b), (c), (d) or (e) if the chairperson is of the opinion that the circumstances of the case do not so warrant.

12. Notices and summonses.

(1) The chairperson may cause any person who is or may be affected by or is concerned in the consideration of a particular matter by the Board, to be notified in the prescribed manner to be present at any meeting, with notice to him or her of the date, time and place of the meeting at which his or her presence is required and the relevant matter to be considered thereat.

(2) A person who has received a notice in terms of subsection (1), shall personally appear before the Board on the date and at the time and place set out in the notice or appoint an advocate or attorney or any other person to so appear on his or her behalf.

(3) The chairperson may cause the designated police officer who has submitted a report contemplated in section 11 (3) (b) to be notified of the meeting at which the report will be considered.

(4) The chairperson may cause any person to be summonsed in the prescribed manner to be present at any meeting to -

(a) give evidence; or

(b) produce any document or any other thing which is in his or her possession or custody or under his or her control and which in the opinion of the chairperson relates or may relate to a matter to be considered thereat, with notice to him or her of the date, time and place of the meeting at which his or her presence is required.

13. Procedure.

(1) Three members of the Board, of whom the chairperson or deputy chairperson and any one of the members appointed in terms of section 7 (1) (c) shall form part, shall be a quorum for a meeting of the Board. **[Sub-s. (1) substituted by s. 10 of Act No. 57 of 1995.]**

(2) Subject to the other provisions of this section, the chairperson shall determine the procedure at the meeting.

(3) Without derogating from section 156, the chairperson may, if he or she is satisfied that any person contemplated in section 12 (1) or (4) whose presence is required at the meeting, has been duly notified or summonsed to be present at the meeting but is not present at the meeting, direct that the meeting be held in the absence of that person.

(4) Any person present at a meeting, whether or not he or she has been notified in terms of section 12 (1) or summonsed in terms of section 12 (4) to be present at the meeting, may -

(a) be called upon by the chairperson to give evidence; or

(b) be ordered by the chairperson to produce to the Board any document or any other thing which is in his or her possession or custody or under his or her control, and be questioned by the Board.

(5) The Board may inspect, and retain for such period as it thinks fit, any document or any other thing produced to it.

(6) If the Board thinks it necessary, the chairperson may require of any person called upon in terms of subsection (4) (a) to give evidence or ordered in terms of subsection (4) (b) to produce to the Board any document or any other thing, that he or she give evidence under oath or after the making of an affirmation.

(7) The oath or affirmation shall be administered by the chairperson or a person designated by him or her for the purpose.

(8) A person appearing before the Board to give evidence or to produce any document or any other thing shall be entitled to any privilege to which a person appearing in criminal proceedings before the Supreme Court is entitled.

(9) (a) The Board may, in considering any application contemplated in section 11 (3) (a), of its own accord take cognisance of any matter which in its opinion may be a ground for an objection to the granting of the application.

(b) The chairperson shall inform the applicant concerned of the matter contemplated in paragraph (a) and shall, if the applicant so requests, postpone the consideration of the application for such period as the chairperson may think fit so as to afford the applicant the opportunity of stating his or her case in connection therewith.

(10) A decision of the Board shall be taken by a majority of votes of the members present at a meeting, and in the event of an equality of votes on any matter, the chairperson shall have a casting vote in addition to his or her deliberative vote.

14. Accessibility of meetings.

(1) Subject to subsections (2) and (3), any meeting of the Board shall be accessible to the public.

(2) The chairperson may in his or her discretion direct that any person whose presence is in his or her opinion not desirable at the meeting concerned, may not attend the meeting or shall leave the meeting.

(3) The deliberations and voting on any matter at a meeting shall take place behind closed doors.

15. Powers of Board.

(1) The Board may, after the consideration by it of -

(a) a matter contemplated in section 11 (3) (a) -

(i) refuse the application concerned; or

(ii) . **[Sub-para. (ii) deleted by s. 7 (a) of Act No. 105 of 1993.]**

(iii) grant the application concerned; **[Sub-para. (iii) substituted by s. 7 (b) of Act No. 105 of 1993.]**

(b) a matter contemplated in section 11 (3) (b), (c) or (d) -

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

(ii) declare the licence concerned to be subject to such conditions or further conditions as it may in its discretion impose; or

(iii) take such other steps as it may think fit;

(c) a matter contemplated in section 11 (3) (e), take such steps as it may think fit;

(d) a matter contemplated in section 11 (3) (f), rescind the suspension of the licence concerned or of any right or privilege which is attached thereto, with immediate effect or from such date as it may determine, subject to such conditions as it may in its discretion impose;

(e) a matter contemplated in section 11 (3) (g)

(i) advise the Member of the Executive Council in its discretion; or

(ii) furnish a report or recommendation to the Member of the Executive Council; **[Para. (e) substituted by s. 11 (a) of Act No. 57 of 1995.]**

(f) a matter contemplated in section 11 (3) (h), take such steps as shall or may be taken in the circumstances of the case.

(2) In the application of subsection (1) (e) (ii), the Board may furnish a recommendation to the Member of the Executive Council that a licence (excluding a temporary liquor licence and an occasional licence) which is the subject of the reference concerned, or any right or privilege which is attached thereto, be suspended or withdrawn or that the suspension thereof be rescinded. **[Sub-s. (2) substituted by s. 11 (b) of Act No. 57 of 1995.]**

16. Minutes.

(1) (a) Minutes of the proceedings in public of every meeting of the Board shall be kept and be retained at the offices of the chairperson.

(b) Any person may obtain copies of the minutes contemplated in paragraph (a) or of any part thereof against payment of the prescribed fees.

(2) (a) Separate minutes of the proceedings behind closed doors of every meeting of the Board shall be kept and retained in like manner.

(b) The minutes contemplated in paragraph (a) or any document in which any advice, report or recommendation by the chairperson or the Board is contained, shall not be disclosed, except to

(i) the Member of the Executive Council; **[Sub-para. (i) substituted by s. 12 (a) of Act No. 57 of 1995.]**

(ii) any person who requires it for the performance of his or her functions in terms of this Act;

(iii) any other person

(aa) on the instructions of the Member of the Executive Council; or **[Item (aa) substituted by s. 12 (b) of Act No. 57 of 1995.]** (bb) in terms of an order of a competent court.

17. Staff.

(1) The staff required for the proper performance of the Board's functions and the administration of this Act shall be appointed in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994). **[Sub-s. (1) substituted by s. 13 of Act No. 57 of 1995.]**

(2) The chairperson may designate any person appointed in accordance with subsection (1) as a secretary of the Board.

18. Annual reports.

The Member of the Executive Council shall as soon as possible after 1 January in each year lodge a report on the Liquor Board's activities during the preceding year through the agency of the Premier with the Minister, who shall cause a report on all the Liquor Boards to be tabled in Parliament. **[S. 18 substituted by s. 14 of Act No. 57 of 1995.]**

CHAPTER 3

APPLICATIONS FOR LICENCES

19. [Applications](#)
20. [Kinds of licenses](#)
21. [Content of licenses](#)
22. [Consideration of applications for licenses \(excluding temporary liquor licences and occasional licenses\)](#)
23. [Consideration of applications for temporary liquor licenses occasional licenses](#)
24. [Death or incapacity of applicants](#)

19. Applications.

Any person may make application for a licence referred to in section 20.

20. Kinds of licences.

The following licences may be granted for the sale of liquor -

- (a) for consumption on the licensed premises concerned, namely -
 - (i) hotel liquor licences;
 - (ii) restaurant liquor licences;
 - (iii) wine-house licences;
 - (iv) theatre liquor licences;
 - (v) club liquor licences;
 - (vi) sorghum beer licences;
 - (vii) special licences;
 - (viii) temporary liquor licences;
 - (ix) occasional licences;

- (b) for consumption off the licensed premises concerned, namely -
 - (i) wholesale liquor licences;
 - (ii) brewers' licences;
 - (iii) liquor store licences;
 - (iv) grocers' wine licences;
 - (v) wine farmers' licences;
 - (vi) sorghum beer brewers' licences;
 - (vii) sorghum beer licences;
 - (viii) special licences;
 - (ix) producers' licences.

21. Content of licences.

A licence grants to the holder thereof such rights and privileges and subjects him or her to such obligations and liabilities as may by virtue of this Act be regulated thereby or issue from the holding thereof.

22. Consideration of applications for licences (excluding temporary liquor licences and occasional licences).

(1) An application for a licence (excluding a temporary liquor licence and an occasional licence) shall be considered by the Board, and it may -

- (a) refuse the application; or
- (b) grant the application. **[Sub-s. (1) amended by s. 8 (a) of Act No. 105 of 1993 and substituted by s. 15 (a) of Act No. 57 of 1995.]**

(2) The Board shall not grant an application under subsection (1) (b) of this section or section 15 (1) (a) (iii)

(a) for a wine farmer's licence, unless the premises in respect of which the application is made, are situated at a place other than the place where the liquor concerned is manufactured; **[Para. (a) substituted by s. 15 (c) of Act No. 57 of 1995.]**

(b) for a special licence, unless exceptional circumstances warrant the granting of the licence; **[Para. (b) substituted by s. 15 (c) of Act No. 57 of 1995.]**

(c) for a producer's licence, unless the premises in respect of which the application is made, are situated on or at the land, central cellar, factory or brewery where the liquor concerned is manufactured; **[Para. (c) substituted by s. 15 (c) of Act No. 57 of 1995.]**

- (d) for any licence -
 - (i) unless -
 - (aa) . . **[Item (aa) deleted by s. 8 (c) of Act No. 105 of 1993.]**

(bb) the premises are or will on completion be suitable for the purposes for which they will be used under the licence;

(cc) if the premises are situated in the vicinity of a place of worship or school or in a residential area, the business will be carried on in a manner that would not disturb the proceedings in that place of worship or school or prejudice the residents of that residential area;

(dd) the applicant concerned is of good character and is otherwise fit to be the holder of the licence;

(ee) the granting of the licence is in the public interest; **[Sub-para. (i) amended by s. 15 (d) of Act No. 57 of 1995.]**

(ii) if the possibility exists that the granting of the application may cause a harmful monopolistic condition to arise or be aggravated in the liquor trade or a branch thereof. **[Sub-s. (2) amended by s. 8 (b) of Act No. 105 of 1993 and by s. 15 (b) of Act No. 57 of 1995. Sub-para. (ii) substituted by s. 15 (e) of Act No. 57 of 1995.]**

(3) . **[Sub-s. (3) deleted by s. 8 (d) of Act No. 105 of 1993.]**

(4) . **[Sub-s. (4) deleted by s. 8 (d) of Act No. 105 of 1993.]**

23. Consideration of applications for temporary liquor licences and occasional licences.

(1) An application for a temporary liquor licence or occasional licence shall be considered by the magistrate, and he or she may -

- (a) refuse the application; or
- (c) grant the licence concerned.

(2) (a) Except in a case contemplated in section 27 (b) or (d), the magistrate shall not grant a temporary liquor licence under subsection (1) (b) -

(i) to a particular person, or

(ii) . **[Sub-para. (ii) deleted by s. 9 of Act No. 105 of 1993.]** for a longer period than seven consecutive days and for more than a total of 30 days per year beginning on 1 January.

(b) In the application of paragraph (a) of this subsection, the times referred to in section 68 between which liquor may be sold or supplied on any day and the following day, shall be deemed to be one day.

(3) The magistrate shall not grant an occasional licence under subsection (1) (b)

(a) except in respect of licensed premises to which a licence referred to in section 20 (a) (i), (ii), (iii), (v), (vi) or (vii) relates;

(b) in respect of the same licensed premises for more than three occasions in a week.

24. Death or incapability of applicants.

If a person who has made an application for a licence (excluding a temporary liquor licence and occasional licence) dies, becomes insolvent, is placed under judicial management or is declared incapable of handling his or her own affairs on or before the date on which the application is considered -

(a) the administrator of the deceased or insolvent estate, judicial manager or curator concerned or, if such an administrator, manager or curator has not yet been appointed or the holder of that office is unable or unwilling to act, a person who has an interest in the application and is authorized thereto by the competent authority considering the application, shall, subject to the law regarding deceased estates, insolvency, judicial management or mental health, have all such rights as the applicant would have had if he or she had not died, become insolvent, been placed under judicial management or been declared so incapable; and

(b) the Board may, subject to this Act and the said law, in its discretion grant the licence in favour of such an administrator, manager, curator or person. **[Para. (b) substituted by s. 10 of Act No. 105 of 1993 and by s. 16 of Act No. 57 of 1995.]**

CHAPTER 4

DISQUALIFICATION FOR LICENCES

25. [Licenses in general](#)
26. [Club liquor licenses](#)
27. [Temporary liquor licenses](#)
28. [Occasional licenses](#)
29. [Wine farmers' licences](#)
30. [Producers' licenses](#)
31. [Certain other off-consumption licenses](#)

25. Licences in general.

(1) A licence shall not be granted to any person who -

(a) has in the Republic or elsewhere in the preceding 10 years been sentenced for any offence to imprisonment without the option of a fine, unless the competent authority considering the application concerned is of the opinion that the offence was of such a nature that it does not imply that such a person is unsuitable to hold the licence or unless the sentence has been set aside by a competent court or such a person has received a grant of amnesty or a free pardon;

(b) has in the preceding 10 years been convicted of an offence in terms of this Act, the Intoxicating the Liquor Act, 1973 (Act No. 7 of 1973) (Lebowa), the Intoxicating the Liquor Act, 1973 (Act No. 8 of 1973) (Gazankulu), the Liquor Act, 1977 (Act No. 87 of 1977) (KaNgwane), the Liquor Act, 1978 (Act No. 37 of 1978) (Transkei), the Liquor Act, 1980 (Act No. 7 of 1980) (KwaZulu), the Intoxicating Liquor Act, 1980 (Act No. 36 of 1980) (Bophuthatswana), the Liquor Act, 1981 (Act No. 6 of 1981) (Qwaqwa), the Intoxicating Liquor Act, 1982 (Act No. 6 of 1982) (KwaNdebele), the Liquor Act, 1983 (Act No. 13 of 1983) (Ciskei), and the Intoxicating Liquor Proclamation, 1991 (Proclamation No. 15 of 1991) (Venda), irrespective of the sentence imposed, and was within five years after the conviction again convicted of an offence in terms of any of the said laws, and was then sentenced therefor to a fine of not less than R200 or to imprisonment without the option of a fine, unless the last-mentioned offence was of such a nature that it does not imply that such a person is unsuitable to hold the licence, or unless any one of the sentences has been set aside by a competent court or such a person has received a grant of amnesty or a free pardon in respect of any one of the sentences or the fine has been remitted; **[Para. (b) substituted by s. 17 of Act No. 57 of 1995.]**

(c) . **[Para. (c) deleted by s. 11 of Act No. 105 of 1993.]**

(d) is an unrehabilitated insolvent;

(e) is a minor on the date of the consideration of the application concerned;

(f) is the spouse of a person contemplated in paragraph (a), (b) or (d).

(2) If a person who is in terms of subsection (1) disqualified to hold a licence

(a) has a controlling interest in a company, close corporation or trust;

(b) is a partner in a partnership; or

(c) is the main beneficiary under a trust, a licence shall also not be granted to that company, corporation, partnership or trust.

(3) In the application of subsection (1) (a) and (b), "preceding" means preceding the date of the application concerned.

26. Club liquor licences.

A club liquor licence shall not be granted except to a club in respect of which the competent authority is satisfied that it is a bona fide club and that, according to the rules thereof -

(a) the club consists of at least 35 ordinary members;

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

(c) only its members (including bona fide reciprocity members) are permitted to pay for facilities, liquor or refreshments supplied on the premises of the club;

(d) in so far as the use of its facilities by guests (excluding family members) of its members is permitted by those rules, the number of guests of any member may not on any occasion exceed the number so permitted;

(e) no ordinary member thereof is elected within less than 14 days after his or her nomination or without his or her name having been displayed on the premises of the club for at least seven days;

(f) the election of such a member takes place either by the management or by all the members of the club, excluding any member disqualified from voting by reason of his or her being in arrear with any payment due thereto;

(g) no person residing within 30 kilometres from the premises of the club is eligible for election as an honorary member, temporary member or reciprocity member of the club unless -

(i) he is so eligible by reason of his or her holding a public office or being a bona fide candidate for membership or having conferred an exceptional benefit on the club; or

(ii) he is allowed the privileges of membership while engaged in a match or competition, approved by the management of the club;

(h) proper records, including a register of members, are kept;

(i) the annual subscription for ordinary members amounts to at least R50,00; **[Para. (i) substituted by s. 12 of Act No. 105 of 1993.]**

(j) no profit from the sale of liquor by the club accrues to any individual; and **[Para. (j) substituted by s. 12 of Act No. 105 of 1993.]**

(k) no member who has not paid his or her subscription within three months after it became due is allowed to remain a member while his or her subscription is unpaid.

27. Temporary liquor licences.

A temporary liquor licence shall not be granted except to -

(a) the holder of a licence referred to in section 20 (a) (i), (ii), (iii), (vi) or (vii);

(b) the holder of a club liquor licence or sportsground liquor licence who has satisfied the magistrate that the temporary liquor licence is necessary for a bona fide public function on the premises of the club or on the sportsground in respect of which he or she is licensed -

(i) which is connected with any game, match, competition or social occasion which forms part of the activities normally taking place on the premises or on the sportsground; or

(ii) for which no suitable facilities are reasonably available at any place other than the premises of a club or a sportsground in the district;

(c) the secretary of a bona fide exhibition;

(d) the secretary, manager or chief steward of a bona fide race or sports meeting or similar event;

(e) the secretary or chairperson of a bona fide cultural or welfare organization;

(f) the principal of an educational institution.

28. Occasional licences.

An occasional licence shall not be granted except to the holder of a licence referred to in section 20 (a) (i), (ii), (iii), (v), (vi) or (vii).

29. Wine farmers' licences.

A wine farmer's licence shall not be granted except to -

(a) a person who engages in viticulture;

(b) an association of persons the majority of the members of which engages in viticulture; or

(c) a co-operative society (as defined in section 1 of the Wine and Spirit Control Act, 1970 (Act No. 47 of 1970)) which manufactures wine from grapes produced by members of the co-operative society and of which no other such co-operative society is a member.

30. Producers' licences.

A producer's licence shall not be granted except to a person who engages in viticulture or manufactures any other fermented beverage.

31. Certain other off-consumption licences.

(1) A licence referred to in section 20 (b) (iii), (vi), (vii) or (viii) shall not be granted to -

(a) a producer or his or her agent;

(b) a manufacturer of beer or his or her agent;

(c) a person who has a financial interest in the business of a producer or a manufacturer of beer, or the agent of such a person;

(d) a company in which shareholders having a financial interest in the business of a producer or a manufacturer of beer, together hold a controlling interest, or the agent of such a company;

(e) a company in which a company contemplated in paragraph (d) holds a controlling interest, or the agent of such a company.

(2) In the application of this section -

(a) "producer" means a co-operative society as defined in section 1 of the Wine and Spirit Control Act, 1970 (Act No. 47 of 1970), which manufactures wine or brandy for sale, or a wholesale trader who has during the expired portion of any year (as defined in section 14 of that Act) or during the immediately preceding year (as so defined) purchased a wholesale quantity (as so defined, and determined with reference to 1 November 1940) of wine of a particular vintage or the equivalent of such a quantity of wine in spirit or who so manufactures wine or brandy;

(b) "financial interest" means any such interest acquired in a business and directly or indirectly related to the fortunes, including the turn-over, of the business, but does not include such an interest which is not a controlling interest acquired in a public company, a co-operative society as defined in section 1 of the Wine and Spirit Control Act, 1970 (Act No. 47 of 1970), or a financial institution registered under the law regarding financial institutions.

CHAPTER 5

ISSUE OF LICENCES

32. [Licenses \(excluding temporary liquor licenses and occasional licenses\)](#)
- 32A. [Replacement of licenses](#)
33. [Incomplete premises](#)
34. [Temporary liquor licenses and occasional licenses](#)
35. [Disqualification and other incompetency](#)

32. Licences (excluding temporary liquor licences and occasional licences).

(1) After the Board has granted an application under section 15 (1) (a) (iii) or 22 (1) (b), the chairperson shall, subject to sections 33 and 35, issue the licence to a person named in the licence, to sell any liquor, or the kind of liquor provided for in this Act in respect of the kind of licence concerned, or, in the case of a special licence, the kind of liquor determined by the Board, on premises the plan of which has been approved by the Board, but which premises shall not for the purposes of the licence include such place or places thereon as it has in its discretion specifically excluded therefrom. **[Sub-s. (1) substituted by s. 13 (a) of Act No. 105 of 1993 and by s. 18 of Act No. 57 of 1995.]**

(2) A licence issued under subsection (1) shall be subject to such conditions set out in the licence as the Board may in its discretion impose. **[Sub-s. (2) substituted by s. 13 (a) of Act No. 105 of 1993 and by s.18 of Act No. 57 of 1995.]**

(3) The Board may, in respect of a sorghum beer licence, special licence or producer's licence, in addition to the imposition by it of any condition or further condition under this section, declare in the licence concerned or in a notice delivered or tendered to the holder of the licence that such provisions of this Act as do not in themselves relate to the licence concerned and as are set out in the licence or notice, shall mutatis mutandis apply to that licence. **[Sub-s. (3) substituted by s. 13 (a) of Act No. 105 of 1993 and by s. 18 of Act No. 57 of 1995.]**

(4) The chairperson may at any time after the issue of a licence under subsection (1) or section 32A (1), by a notice delivered or tendered to the holder of the licence 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;

(b) suspend, withdraw or amend any condition or declaration imposed or made by him or her or the Board under this section. **[Sub-s. (4) substituted by s. 13 (a) of Act No. 105 of 1993.]**

(5) (a) . **[Para. (a) deleted by s. 13 (b) of Act No. 105 of 1993.]**

(b) If profits are not paid over in accordance with a condition contemplated in paragraph (a), the person or body to whom the profits are to be paid over may by judicial process recover from the holder of the licence concerned an amount equal to such profits.

32A. Replacement of licences.

(1) The chairperson may at any time after the issue of a licence under section 32 (1) and with the concurrence of the holder thereof, replace such licence by the issue of another licence of the same kind in respect of the premises concerned free of charge to the holder thereof.

(2) A licence issued under subsection (1), shall be subject to such conditions set out in the licence as the chairperson may in his or her discretion impose. **[S. 32A inserted by s. 14 of Act No. 105 of 1993.]**

33. Incomplete premises.

(1) If an application for a licence (excluding a temporary liquor licence and an occasional licence) is granted by the Board in respect of premises not yet erected, or premises requiring any structural alteration, addition or reconstruction to be effected so as to make them suitable for the purposes for which they will be used under the licence, the chairperson shall issue a notice to the applicant concerned in which he or she shall be ordered to comply with such conditions or requirements, referred to in the notice, with regard to those premises as the chairperson may determine, within such period as may likewise be determined and referred to. **[Sub-s. (1) substituted by s. 15 (a) of Act No. 105 of 1993 and by s. 19 (a) of Act No. 57 of 1995.]**

(2) The chairperson may at any time after the issue of such a notice, on application by the applicant concerned

(a) withdraw or amend any condition or requirement determined under subsection (1);

(b) extend the period determined under subsection (1);

(c) extend or further extend the period determined under subsection (1) or the period so determined and extended under paragraph (b) of this subsection, as the case may be, in respect of premises not yet

erected at the time of the issue of the notice, if he or she is satisfied that a substantial part of the premises has since been erected;

(d) approve an amended plan in respect of the premises. **[Para. (d) added by s. 19 (b) of Act No. 57 of 1995.]**

(3) The period determined under subsection (1) or the period so determined and extended under subsection (2) (b), as the case may be, shall not be longer than 24 months, and the period extended or further extended under subsection (2) (c), as the case may be, shall not be longer than a further 12 months.

(4) When the chairperson is satisfied that the premises in respect of which a notice has been issued under subsection (1), have been completed in accordance with the plan thereof approved by the chairperson or the Board, as the case may be, the conditions and requirements determined by the chairperson have been complied with and the premises are suitable for the purposes for which they will be used under the licence concerned, he or she shall issue the licence in accordance with section 32 (1)

(a) in a case contemplated in subsection (6) and subject to this Act and the law regarding deceased estates, insolvency, judicial management or mental health, to the administrator, manager, curator or person so contemplated;

(b) in any other case, to the applicant concerned. **[Sub-s. (4) amended by s. 15 (b) of Act No. 105 of 1993.]**

(5) If the licence is not issued before the expiration of the period determined under subsection (1), extended under subsection (2) (b) or further extended under subsection (2) (c), as the case may be, the notice concerned shall lapse and the application for the licence shall be deemed not to have been granted.

(6) If an applicant to whom a notice has been issued under subsection (1) dies, becomes insolvent, is placed under judicial management or is declared incapable of handling his or her own affairs -

(a) the administrator of the deceased or insolvent estate, judicial manager or curator concerned or, if such an administrator, manager or curator has not yet been appointed or the holder of that office is unable or unwilling to act, a person who has an interest in the application and is authorized thereto by the Board, shall, subject to the law regarding deceased estates, insolvency, judicial management or mental health, have all such rights as that applicant would have had if he or she had not died, become insolvent, been placed under judicial management or been declared so incapable; and **[Para. (a) substituted by s. 19 (c) of Act No. 57 of 1995.]**

(b) the administrator, manager, curator or person contemplated in paragraph (a) of this subsection may do anything that he or she may by virtue of the notice be required to do so as to satisfy the Board as to the matters contemplated in subsection (4). **[Para. (b) substituted by s. 19 (c) of Act No. 57 of 1995.]**

34. Temporary liquor licences and occasional licences.

(1) After granting a temporary liquor licence or occasional licence under section 23 (1) (b), the magistrate shall issue the licence to a person named in the licence, to sell -

(a) in the case of a temporary liquor licence - (i) where the licence has been granted to the holder of a licence contemplated in section 27 (a) or (b), the liquor permitted by the last-mentioned licence concerned; or (ii) where that licence has been granted to a person contemplated in section 27 (c), (d), (e) or (f), any liquor or the kind of liquor determined by the magistrate; or

(b) in the case of an occasional licence, the liquor permitted by the licence in respect of which the occasional licence has been granted, as the case may be -

(aa) in the case of a temporary liquor licence, at the place on the premises where the occasion in respect of which the licence has been granted, takes place, determined by the magistrate; or

(bb) in the case of an occasional licence, on the licensed premises in respect of which the occasional licence has been granted, but which premises shall not for the purposes of the occasional licence include such place or places thereon as the magistrate has in his or her discretion specifically excluded therefrom.

(2) A licence issued under subsection (1) shall be subject to such conditions set out in the licence as the magistrate may in his or her discretion impose.

35. Disqualification and other incompetency.

A licence shall not be issued to a person who is disqualified or otherwise incompetent in terms of this Act to hold the licence concerned.

CHAPTER 6

GENERAL CONDITIONS APPLICABLE TO LICENCES

36. [Standard conditions](#)
37. [Financial interests](#)
38. [Controlling interests](#)
39. [Management](#)
40. [Nature of premises](#)
41. [Nature of business](#)
42. [Alterations to and extension of licensed premises](#)
43. [Place for sale of liquor](#)
44. [Employees](#)
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46. [Accessibility of licensed premises](#)
47. [Records](#)
48. [Furnishing of information and documents](#)
49. [Quality of liquor](#)
- 50.. [\[S.50 repealed by s.20 of Act No. 105 of 1993\]](#)
51. [Storing of liquor](#)

36. Standard conditions.

(1) The Minister may by a notice in the Gazette impose in respect of any kind of licence referred to in the notice such conditions as he or she may think fit, and thereupon every licence of that kind shall, as from a date so referred to or, if such a licence is issued after that date or such a licence which has lapsed or has been suspended before that date again becomes valid after that date in terms of section 108 or 109, from the date on which it is issued or again becomes valid, as the case may be, be subject to those conditions.

(2) The Minister may at any time suspend, withdraw or amend any condition imposed under subsection (1)

- (a) by a notice in the Gazette, in so far as that condition relates to any kind of licence;
- (b) by a notice delivered or tendered to the holder of a particular licence, in so far as that condition relates to that licence.

37. Financial interests.

(1) A producer, a manufacturer of beer or a person who has a controlling interest in a company, partnership or close corporation which is a producer or a manufacturer of beer, shall not without the consent of the Minister, granted on application and on such conditions as he or she may think fit, directly or indirectly procure a financial interest in the business to which a licence referred to in section 20 (b) (iii), (vi), (vii) or (viii) relates.

(2) The holder of a licence contemplated in subsection (1) or a person who has a controlling interest in a company, partnership or close corporation which is the holder of such a licence, shall not without the consent of the Minister, granted on application and on such conditions as he or she may think fit, directly or indirectly procure a financial interest in the business of a producer or a manufacturer of beer.

(3) In the application of this section, "producer" mutatis mutandis has the meaning ascribed to it in section 31 (2).

38. Controlling interests.

(1) The holder of a licence shall not permit any other person to procure a controlling interest in the business to which the licence relates, unless the chairperson has, on application by the holder, granted consent that such a person may procure such an interest in that business.

(2) The chairperson shall not grant consent under subsection (1) -

- (a) in the case of a business to which a club liquor licence relates;
- (b) where the person who is the subject of the application, is disqualified in terms of section 25 to hold a licence;
- (c) if in his or her opinion the possibility exists that the granting of the application may cause a harmful monopolistic situation to arise or be aggravated in the liquor trade or a branch thereof.

39. Management.

(1) A person other than a natural person shall not conduct any business under a licence unless a natural person who permanently resides in the Republic and who is not disqualified in terms of section 25 to hold a licence, is appointed by him or her in the prescribed manner to manage and be responsible for its business. **[Sub-s. (1) substituted by s. 16 (a) of Act No. 105 of 1993.]**

(2) A natural person who is the holder of a licence may in the prescribed manner appoint another natural person who permanently resides in the Republic and who is not disqualified in terms of section 25 to hold a licence, to manage and be responsible for the business to which the first-mentioned licence relates. **[Sub-s (2) substituted by s. 16 (a) of Act No. 105 of 1993.]**

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

- (i) has, in the opinion of the chairperson, left the licensed premises concerned without making provision for the conduct thereon of the business to which the licence relates; or

(ii) becomes a person who is disqualified or otherwise incompetent in terms of this Act to hold the licence, or if the holder of a licence which is a partnership, is dissolved, the chairperson may, on application by a person who has an interest in the business concerned, appoint any person he or she thinks fit to manage and be responsible for that business for a period of not more than 12 months, and a person so appointed shall, subject to paragraph (b) (ii), for the period of his or her appointment for all purposes be deemed to be the holder of the licence concerned. **[Para. (a) amended by s. 16 (b) of Act No. 105 of 1993.]**

(b) An appointment under paragraph (a) -

(i) shall be subject to such conditions set out in the appointment as the chairperson may in his or her discretion impose;

(ii) shall not affect any right of a person who has an interest in the business concerned;

(iii) may at any time be withdrawn by the chairperson.

(4) (a) A person managing and responsible for a business to which a licence relates, shall be subject to the same obligations and liabilities as the holder of the licence concerned.

(b) Paragraph (a) shall not release the holder of a licence from any obligation or liability to which he or she is subject in law.

40. Nature of premises.

(1) Subject to sections 87 and 99 and without derogating from section 41, the holder of a licence (excluding a temporary liquor licence, occasional licence and wholesale liquor licence) shall not conduct his or her 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.

(2) Unless the competent authority, at any time when the matter may in its opinion rightly be raised, determines otherwise in a particular case, two or more premises under the same roof shall for the purposes of subsection (1) be deemed to be one if those premises are not completely separated from each other by a wall or walls in which there is no door, window or other aperture.

41. Nature of business.

(1) Notwithstanding any law to the contrary -

(a) the holder of an on-consumption licence may also sell or supply newspapers, light refreshments and smokers' requisites on the licensed premises, or conduct such other business thereon as the Board, on application, when granting the licence concerned or the chairperson may, on application, at any time thereafter, approve subject to such conditions as the Board or the chairperson, as the case may be, may think fit; **[Para. (a) substituted by s. 17 (a) of Act No. 105 of 1993 and by s. 20 of Act No. 57 of 1995.]**

(b) the holder of a brewer's licence may also manufacture beer containing less than one per cent by volume of alcohol, on the licensed premises;

(c) the holder of a liquor store licence or special licence referred to in section 20 (b) (viii) may also sell or supply mineral waters, other drinks (other than liquor as defined in section 2 (1)), tobacco, cigars, cigarettes, matches, cooler bags and such other articles as the chairperson may by a notice in the Gazette declare to be articles normally used in or in connection with the serving of liquor, on the licensed premises;

(d) the holder of a wine farmer's licence may also sell such articles as the Minister may by a notice in the Gazette declare to be articles normally used in or in connection with the serving of wine, on the licensed premises;

(e) the holder of a producer's licence may also sell any product which has been produced or manufactured on land owned or lawfully occupied by him or her. **[Para. (e) added by s. 17 (b) of Act No. 105 of 1993.]**

(2) The Minister may at any time by a like notice withdraw or amend any declaration made under subsection (1) (c) or (d).

42. Alterations to and extension of licensed premises.

The holder of a licence (excluding a temporary liquor licence) shall not -

(a) effect any structural alteration, addition or reconstruction of or to the licensed premises; or

(b) extend the licensed premises,

except with the consent of the chairperson, granted on application by him or her and on such conditions as the chairperson may think fit.

43. Place for sale of liquor.

(1) Subject to section 51 (5) and (6), the holder of a licence shall not sell liquor at any place other than the licensed premises.

(2) The chairperson may, on application by the holder of an on-consumption licence, grant consent to that holder, on such conditions as the chairperson may think fit and for such period as the chairperson may determine, to carry on his or her business on only a part of the licensed premises.

(3) Subsection (1) shall not apply to the soliciting, taking, accepting or receiving of orders or offers for the sale or purchase of liquor in the course of a transaction between holders of licences or exempted persons. **[Sub-s. (3) added by s. 18 of Act No. 105 of 1993.]**

44. Employees.

(1) The holder of a licence shall not -

(a) in or in connection with the sale or supply of liquor; or

(b) during the times when he or she may sell or supply liquor, in any restricted part (if any) of the licensed premises, employ any person -

(i) who is under the age of 18 years; or

(ii) who to his or her knowledge has within the preceding two years been convicted of a contravention of any law governing the sale of liquor and has been sentenced therefor to imprisonment without the option of a fine.

(2) Subsection (1) shall not apply -

(a) to any person of or above the age of 16 years who is undergoing or has undergone training in catering services, and who is employed on the premises of the holder of a licence to whom he or she is duly apprenticed in any capacity in connection with the management of the business to which the licence relates; or

(b) to a member of the family of the holder of the licence or of the manager of the business to which the licence relates.

45. Juveniles.

The holder of a licence shall not -

(a) sell or supply liquor on the licensed premises to any person who is under the age of 18 years;

(b) allow such a person who is not a person contemplated in section 44 (2), to be in any restricted part (if any) of those premises.

46. Accessibility of licensed premises.

The holder of a licence or his or her agent or employee may -

(a) refuse to admit any person to the licensed premises or any part thereof;

(b) refuse to sell or supply liquor to any person;

(c) request any person who is in any part of the licensed premises, to leave that part;

(d) request any person who is not a lodger on the licensed premises and who is in any part of the licensed premises reserved for lodgers, to leave that part;

(e) remove from the licensed premises any person who is drunk, violent or disorderly or whose presence on the licensed premises may subject the holder of the licence to prosecution under this Act or any other law;

(f) request any police officer to remove or assist in removing from the licensed premises any person contemplated in paragraph (e) or to remove from the licensed premises any person who refuses or fails to comply with a request contemplated in paragraph (c) or (d).

47. Records.

- (1) The holder of a licence shall keep the prescribed records in the prescribed manner.
- (2) The chairperson may at any time by a notice delivered or tendered to the holder of a licence
 - (a) direct that holder to keep such additional records as may be determined in the notice, in such manner as may likewise be determined;
 - (b) withdraw or amend any direction contemplated in paragraph (a).

48. Furnishing of information and documents.

The holder of a licence shall, at the request of the chairperson, furnish such information and documents in connection with the licensed premises (including a description and plan thereof), the business to which the licence relates or that holder's interests in the liquor trade or a branch thereof as the chairperson may require.

49. Quality of liquor.

The holder of a licence shall not sell or supply liquor -

- (a) . **[Para. (a) substituted by s. 32 of Act No. 60 of 1989 and deleted by s. 19 of Act No. 105 of 1993.]**
- (b) as being of a particular kind or brand or as the manufacture of a particular person, which is not of that kind or brand or the manufacture of that person.

50. . . [S. 50 repealed by s. 20 of Act No. 105 of 1993.]

51. Storing of liquor.

(1) The holder of a licence shall store his or her liquor on the licensed premises unless the chairperson, on application, determines another or an additional place in the district in which the licensed premises concerned are situated, in which the liquor may be stored.

(2) The holder of a wholesale liquor licence, brewer's licence, sorghum beer brewer's licence or producer's licence may, notwithstanding subsection (1), also store his or her liquor in a place, determined by the chairperson on application, in a district in the same province other than the district in which the licensed premises concerned are situated: Provided that, if such determination to store liquor in another province was granted to a licensee before the commencement of the Liquor Amendment Act, 1995, such determination shall continue to exist. **[Sub-s. (2) substituted by s. 21 (a) of Act No. 57 of 1995.]**

(3) A determination under subsection (1) or (2) shall be subject to such conditions set out in the determination as the chairperson may in his or her discretion impose.

(4) The chairperson may at any time amend any determination made under subsection (1) or (2).

(5) The holder of the licence concerned shall not sell liquor in or from a place determined under subsection (1) or (2), except to -

- (a) a person who exports liquor from the Republic;
- (b) the holder of a licence;
- (c) an exempted person.
- (d) . **[Para. (d) deleted by s. 21 (b) of Act No. 57 of 1995.]**

(6) The holder of a wholesale liquor licence may, notwithstanding subsection (5) of this section, also sell his or her liquor in or from a place determined under subsection (1) or (2) of this section, to

- (a) subject to section 154 (1) (k), a person employed in connection with the carrying on of the business to which the licence relates;
- (b) a person contemplated in Item 602.01 of Schedule 6 of the Customs and Excise Act, 1964 (Act No. 91 of 1964);
- (c) a person who supplies grapes or wine to him or her in bulk for processing or blending.

CHAPTER 7

SPECIAL CONDITIONS APPLICABLE TO ON-CONSUMPTION LICENCES

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Overall condition

52. Place for consumption of liquor.

(1) Subject to subsection (2), the holder of every on-consumption licence shall ensure that liquor sold thereunder be consumed on the licensed premises only.

(2) The holder of a wine-house licence to whom an approval under section 60 has been granted shall ensure that no liquor be consumed on the licensed premises in the place to which the approval relates.

Hotel liquor licences

53. Nature of premises.

(1) The holder of a hotel liquor licence shall at all times maintain on the licensed premises a bona fide hotel at which accommodation and meals are regularly supplied to guests. **[Sub-s. (1) substituted by s. 22 (a) of Act No. 57 of 1995.]**

(2) . . **[Sub-s. (2) deleted by s. 22 (b) of Act No. 57 of 1995.]**

54. Times of business.

(1) The holder of a hotel liquor licence may, notwithstanding any law to the contrary

(a) at any time and on any day, irrespective of whether the day is a closed day or not, sell his or her liquor on the licensed premises, including (except on a closed day) a restricted part thereof, to a lodger for consumption by the lodger or his or her guest;

(b) between 10h00 on any day and 02h00 on the following day, irrespective of whether any one of the days is a closed day or not, sell his or her liquor on the licensed premises, including (except on a closed day) a restricted part thereof, to a person other than a lodger, but may on a closed day only sell it to such a person taking a meal purchased on those premises and consuming the liquor at or immediately before or after the meal: Provided that the provisions of paragraphs (a) and (b) shall not apply to the holder of such licence who is a member of the South African Tourism Board's voluntary grading and classification scheme referred to in section 18 of the Tourism Act, 1993. **[Sub-s. (1) amended by s. 21 of Act No. 105 of 1993.]**

(2) The chairperson may at any time, on application by the holder of such a licence, grant consent to that holder to sell liquor between other times or under other circumstances than those determined by subsection (1).

Restaurant liquor licences

55. Nature of premises.

The holder of a restaurant liquor licence shall at all times maintain on the licensed premises a bona fide restaurant at which meals are regularly supplied to guests.

56. . . [S. 56 repealed by s. 22 of Act No. 105 of 1993.]

57. Times of business.

The holder of a restaurant liquor licence may, notwithstanding any law to the contrary, sell his or her liquor between 10:00 on any day and 02:00 on the following day irrespective of whether any one of the days is a closed day or not, but may on a closed day only sell it to a person taking an ordinary meal purchased on the licensed premises and consuming the liquor at or immediately before or after the meal. **[S. 57 substituted by s. 23 of Act No. 105 of 1993.]**

Wine-house licences

58. Nature of premises.

The holder of a wine-house licence shall at all times maintain on the licensed premises a bona fide restaurant at which meals are regularly supplied to guests.

59. Kinds of liquor.

- (1) The holder of a wine-house licence shall not sell liquor other than
 - (a) wine, manufactured by the holder of a producer's licence;
 - (b) table wine, manufactured on an estate in an area in which the licensed premises to which the first-mentioned licence relates are situated.
- (2) In the application of this section
 - (a) "area" means an area of production defined on or before 31 December 1976 under section 22 of the Wine, Other Fermented Beverages and Spirits Act, 1957 (Act No. 25 of 1957);
 - (b) "estate" means an estate defined under that section, or in terms of a scheme established under section 14 of the Liquor Products Act, 1989; **[Para. (b) substituted by s. 32 of Act No. 60 of 1989.]**
 - (c) "table wine" means wine containing not more than 14 per cent by volume of alcohol and sold under the name of the estate concerned; **[Para. (c) substituted by s. 32 of Act No. 60 of 1989.]**
 - (d) . **[Para. (d) deleted by s. 32 of Act No. 60 of 1989.]**

60. Sale of liquor for off-consumption.

- (1) An approval may, on application, be granted by the Board -
 - (a) when granting a wine-house licence; or
 - (b) at any time after a wine-house licence was issued, to the holder of such wine-house licence to sell his or her liquor in such place on the licensed premises, to be set apart for that purpose, as the Board may determine, for consumption off those premises. **[Sub-s. (1) substituted by s. 24 (a) of Act No. 105 of 1993 and by s. 23 of Act No. 57 of 1995.]**
- (2) The chairperson may issue an approval contemplated in subsection (1) subject to such conditions set out in the approval as the Board may in its discretion impose. **[Sub-s. (2) substituted by s. 24 (b) of Act No. 105 of 1993 and by s. 23 of Act No. 57 of 1995.]**
- (3) The Board may, in respect of an approval contemplated in subsection (1), in addition to the imposition by it of any condition or further condition under this section, declare in the approval concerned or in a notice delivered or tendered to the holder of the wine-house licence concerned that such provisions of this Act with regard to liquor store licences as do not in themselves relate to the first-mentioned licence concerned and as are set out in the approval or notice, shall mutatis mutandis apply to that licence. **[Sub-s. (3) substituted by s. 24 (b) of Act No. 105 of 1993 and by s. 23 of Act No. 57 of 1995.]**
- (4) The chairperson may at any time after the issue of an approval under subsection (2), by a notice delivered or tendered to the holder of the licence concerned -
 - (a) declare the approval to be subject to such conditions or further conditions set out in the notice as he or she may in his or her discretion impose;
 - (b) withdraw or amend any condition or declaration imposed or made by him or her or the Board under this section; **[Para. (b) substituted by s. 24 (c) of Act No. 105 of 1993.]**
 - (c) on application, redetermine the place contemplated in subsection (1);
 - (d) withdraw any approval granted under subsection (1).

61. Times of business.

The holder of a wine-house licence may, notwithstanding any law to the contrary, sell his or her liquor between 10:00 on any day and 02:00 on the following day irrespective of whether any one of the days is a closed day or not, but may on a closed day only sell it to a person taking an ordinary meal purchased on the licensed premises and consuming the liquor at or immediately before or after the meal. **[S. 61 substituted by s. 25 of Act No. 105 of 1993.]**

Theatre liquor licences

62. Nature of premises and of business.

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

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

63. Times of business.

(1) The holder of a theatre liquor licence may, notwithstanding any law to the contrary, sell his or her liquor on those days, excluding closed days, on which dramatic performances, plays, concerts or films are presented or shown at the theatre concerned, and then between the times which the Board may, when granting the licence, in its discretion determine, but which shall not lie outside -

(a) a time earlier than 10h00 or, if presentations or shows commence after 10h30, a time earlier than 30 minutes before the time at which presentations or shows commence; and (

b) a time later than 24h00 or, if presentations or shows end earlier than 23h30, a time later than 30 minutes after the time at which presentations or shows end. **[Sub-s. (1) amended by s. 26 of Act No. 105 of 1993 and by s. 24 (a) of Act No. 57 of 1995.]**

(2) The Board may at any time, on application by the holder of such a licence, amend any determination made under subsection (1). **[Sub-s. (2) substituted by s. 24 (b) of Act No. 57 of 1995.]**

Club liquor licences

64. Nature of premises.

The holder of a club liquor licence shall at all times maintain on the licensed premises a bona fide club in respect of which the requirements of section 26 (a) to (k) of this Act are being complied with.

65. Times of business.

The holder of a club liquor licence may, notwithstanding any law to the contrary, sell his or her liquor between 10h00 on any day and 02h00 on the following day, irrespective of whether any one of the days is a closed day or not.

66. Records.

The holder of a club liquor licence shall not sell or supply liquor to a member of the club for consumption by that member's guest unless that member has entered his or her name and the name and address of that guest clearly and indelibly in the applicable records (if any) which that holder is required to keep by virtue of section 47.

Sorghum beer licences for on-consumption

67. Kind of liquor.

The holder of a sorghum beer licence referred to in section 20 (a) (vi) may only sell sorghum beer procured from the holder of a licence.

Temporary liquor licences

68. Times of business.

The holder of a temporary liquor licence may, notwithstanding any law to the contrary, sell his or her liquor on the licensed premises on that day or those days on which the occasion in respect of which the licence has been granted, takes place, between 10:00 on any such day and 02:00 on the following day, irrespective of whether any one of the days is a closed day or not, but may on a closed day only sell it to a person taking an ordinary meal purchased on the licensed premises and consuming the liquor at or immediately before or after the meal. **[S. 68 substituted by s. 27 of Act No. 105 of 1993.]**

Occasional licences

69. Nature of business.

The holder of an occasional licence which has been granted in respect of licensed premises to which a club liquor licence relates shall ensure that only members of the club concerned (including bona fide reciprocity members) pay for liquor sold under the occasional licence.

70. Times of business.

The holder of an occasional licence may, notwithstanding any law to the contrary, sell liquor -
(a) on any day, excluding a closed day, between the time of closing of the licensed premises in respect of which the occasional licence has been granted and 04h00; or (b) where those premises close on or before 24h00 on such a day, between the time of closing of the premises and 04h00 on the following day if the last-mentioned day is not a closed day.

Sportsground liquor licences

71. Nature of premises.

The holder of a sportsground liquor licence shall at all times maintain on the licensed premises a bona fide sportsground on which public sports meetings are regularly held.

72. Times of business.

(1) The holder of a sportsground liquor licence may, notwithstanding any law to the contrary, sell liquor on those days, excluding closed days, on which public sports meetings are held on the sportsground concerned, and then between the times which were before the repeal by this Act of the Liquor Act, 1977 (Act No. 87 of 1977), or before the repeal by the Liquor Amendment Act, 1995, of the Liquor Act, 1977 (Act No. 87 of 1977) (KaNgwane), and the Liquor Act, 1980 (Act No. 7 of 1980) (KwaZulu), as the case may be, determined in respect of the licence concerned. **[Sub-s. (1) substituted by s. 25 of Act No. 57 of 1995.]**

(2) The chairperson may at any time, on application by the holder of such a licence, redetermine the times between which that holder may in accordance with subsection (1) sell liquor, but which shall not lie outside -

(a) a time earlier than 10h00 or, if meetings commence after 10h00, a time earlier than the time at which meetings commence; and

(b) a time later than 23h30 or, if meetings end earlier than 23h30, at a time later than 30 minutes after the time at which meetings end. **[Sub-s. (2) amended by s. 28 of Act No. 105 of 1993.]**

CHAPTER 8

SPECIAL CONDITIONS APPLICABLE TO OFF-CONSUMPTION LICENCES

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Overall conditions

73. Place for consumption of liquor.

(1) Subject to subsection (2), the holder of every off-consumption licence shall ensure that no liquor be consumed on the licensed premises.

(2) The holder of a wholesale liquor licence, brewer's licence, liquor store licence, wine farmer's licence or producer's licence to whom an approval under section 78, 82, 86, 94 or 104 has been granted shall ensure that liquor supplied in terms of the approval be only consumed in the place for such supply determined under the applicable section.

74. Delivery of liquor.

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

(a) deliver any liquor from or by any vehicle or other receptacle or induce any person to do so, unless, before the despatch of the liquor, that liquor was ordered and an invoice, in the prescribed form if any form is prescribed, was made out in respect of the order, the original of which shall be retained on the premises from which the liquor is despatched;

(b) convey liquor for delivery in any vehicle or other receptacle unless he or she retains a copy of the invoice, contemplated in paragraph (a), in respect of that liquor in that vehicle or receptacle;

(c) deliver liquor to an address not given in that invoice.

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

75. . . [S. 75 repealed by s. 29 of Act No. 105 of 1993.]

Wholesale liquor licences

76. Nature of business.

(1) The holder of a wholesale liquor licence shall not sell or supply liquor to a person who is not the holder of a licence or an exempted person.

(2) Subsection (1) of this section shall not apply

(a) subject to the conditions or restrictions determined under section 136 (1) of the Liquor Act, 1977 (Act No. 87 of 1977), or any provision of a law mentioned in Schedule 2 to the Liquor Amendment Act, 1995, to the holder of a wholesale liquor licence in respect of which a valid authority to deal directly with the public, issued under that section or such provision was held immediately before the commencement of this Act or the Liquor Amendment Act, 1995, as the case may be, to the extent of that authority; **[Para. (a) substituted by s. 26 of Act No. 57 of 1995.]**

(b) subject to a condition contemplated in subsection (2) (c) of section 187, to the holder of a wholesale liquor licence which became such a licence by virtue of that section;

(c) to the sale of liquor for the purpose of section 51 (5) or (6);

(d) to the supply of liquor for the purpose of section 78.

77. Times of business.

(1) The holder of a wholesale liquor licence may, notwithstanding any law to the contrary but subject to the other provisions of this section, sell or deliver his or her liquor between 07h00 and 22h00 on any day which is not a closed day.

(2) The holder of such a licence in respect of which an authority or condition contemplated in subsection (2) (a) or (b) of section 76 is in force may, notwithstanding any law to the contrary -

(a) on any day, excluding a closed day and Saturday, sell or deliver his or her liquor between 08:00 and 20:00; **[Para. (a) substituted by s. 30 (a) of Act No. 105 of 1993.]**

(b) on any Saturday, excluding a closed day, sell or deliver his or her liquor between 08:00 and 17:00.
[Para. (b) substituted by s. 30 (a) of Act No. 105 of 1993.]

(3) . **[Sub-s. (3) deleted by s. 30 (b) of Act No. 105 of 1993.]**

(4) . **[Sub-s. (4) deleted by s. 30 (b) of Act No. 105 of 1993.]**

78. Supply of liquor for on-consumption.

(1) An approval may, on application, be granted -

(a) by the Board when granting a wholesale liquor licence; or **[Para. (a) substituted by s. 27 of Act No. 57 of 1995.]**

(b) by the chairperson at any time after a wholesale liquor licence was issued, to the holder of such wholesale liquor licence to supply his or her liquor free of charge in such place on the licensed or any adjoining or neighbouring premises, to be set apart for that purpose, as the chairperson or the Board may determine, to -

(i) a bona fide visitor to those premises;

(ii) a bona fide guest; or

(iii) subject to section 154 (1) (k), a person employed in connection with the carrying on of the business to which the licence relates, for consumption in that place. **[Sub-s. (1) amended by s. 31 (a) of Act No. 105 of 1993.]**

(2) The chairperson may issue such an approval subject to such conditions set out in the approval as he or she or the Board, as the case may be, may in his or her or its discretion impose. **[Sub-s. (2) substituted by s. 31 (b) of Act No. 105 of 1993.]**

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

(a) declare the approval to be subject to such conditions or further conditions set out in the notice as he or she may in his or her discretion impose;

(b) withdraw or amend any condition or declaration imposed or made by him or her or the Board under this section; **[Para. (b) substituted by s. 31 (c) of Act No. 105 of 1993.]**

(c) on application, redetermine the place contemplated in subsection (1);

(d) withdraw any approval granted under subsection (1).

Brewers' licences

79. Kind of liquor.

The holder of a brewer's licence may only sell or supply beer (including beer contemplated in section 41 (1) (b)) manufactured in the Republic.

80. Nature of business.

(1) Subject to subsection (3), the holder of a brewer's licence shall not sell or supply liquor to a person who is not the holder of a licence or an exempted person.

(2) Subsection (1) of this section shall not apply -

(a) to the sale of liquor for the purpose of section 51 (5);

(b) to the supply of liquor for the purpose of section 82.

(3) An authority may, on application, be granted -

(a) by the Board when granting a brewer's licence; or **[Para. (a) substituted by s. 28 of Act No. 57 of 1995.]**

(b) by the chairperson at any time after a brewer's licence was issued, to the holder of such brewer's licence to sell his or her liquor to persons to whom he or she may not sell it in terms of subsection (1). **[Sub-s. (3) substituted by s. 32 (a) of Act No. 105 of 1993.]**

(4) The chairperson may issue such an authority subject to such conditions set out in the authority as he or she or the Board, as the case may be, may in his or her or its discretion impose. **[Sub-s. (4) substituted by s. 32 (b) of Act No. 105 of 1993.]**

(5) The chairperson may at any time after the issue of such an authority, by a notice delivered or tendered to the holder of the licence concerned -

(a) declare the authority to be subject to such conditions or further conditions set out in the notice as he or she may in his or her discretion impose;

(b) withdraw or amend any condition or declaration imposed or made by him or her or the Board under this section. **[Para. (b) substituted by s. 32 (c) of Act No. 105 of 1993.]**

81. Times of business.

(1) The holder of a brewer's licence may, notwithstanding any law to the contrary but subject to the other provisions of this section, sell or deliver his or her liquor between 07h00 and 22h00 on any day which is not a closed day.

(2) The holder of such a licence in respect of which an authority contemplated in section 80 (3) is in force may, notwithstanding any law to the contrary

(a) on any day, excluding a closed day and Saturday, sell or deliver his or her liquor between 08:00 and 20:00; **[Para. (a) substituted by s. 33 (a) of Act No. 105 of 1993.]**

(b) on any Saturday, excluding a closed day, sell or deliver his or her liquor between 08:00 and 17:00. **[Para. (b) substituted by s. 33 (a) of Act No. 105 of 1993.]**

(3) . **[Sub-s. (3) deleted by s. 33 (b) of Act No. 105 of 1993.]**

(4) . **[Sub-s. (4) deleted by s. 33 (b) of Act No. 105 of 1993.]**

82. Supply of liquor for on-consumption.

(1) An approval may, on application, be granted -

(a) by the Board when granting a brewer's licence; or **[Para. (a) substituted by s. 29 of Act No. 57 of 1995.]**

(b) by the chairperson at any time after a brewer's licence was issued, to the holder of such brewer's licence to supply any liquor free of charge in such place on the licensed or any adjoining or neighbouring premises, to be set apart for that purpose, as the chairperson or the Board may determine, to -

(i) a bona fide visitor to those premises;

(ii) a bona fide guest; or

(iii) subject to section 154 (1) (k), a person employed in connection with the carrying on of the business to which the licence relates, for consumption in that place. **[Sub-s. (1) amended by s. 34 (a) of Act No. 105 of 1993.]**

(2) The chairperson may issue such an approval subject to such conditions set out in the approval as he or she or the Board, as the case may be, may in his or her or its discretion impose. **[Sub-s. (2) substituted by s. 34 (b) of Act No. 105 of 1993.]**

(3) The chairperson may at any time after the issue of such an approval, by a notice delivered or tendered to the holder of the licence concerned

(a) declare the approval to be subject to such conditions or further conditions set out in the notice as he or she may in his or her discretion impose;

(b) withdraw or amend any condition or declaration imposed or made by him or her or the Board under this section; **[Para. (b) substituted by s. 34 (c) of Act No. 105 of 1993.]**

(c) on application, redetermine the place contemplated in subsection (1);

(d) withdraw any approval granted under subsection (1).

Liquor store licences

83. . [S. 83 repealed by s. 35 of Act No. 105 of 1993.]

84. Capacity and condition of receptacles.

- (1) The holder of a liquor store licence shall not -
- (a) . **[Para. (a) deleted by s. 36 (a) of Act No. 105 of 1993.]**
 - (b) sell liquor in a receptacle which is not properly and securely sealed;
 - (c) sell liquor other than beer in a receptacle which has a capacity of more than five litres.
- (2) . **[Sub-s. (2) deleted by s. 36 (b) of Act No. 105 of 1993.]**

85. Times of business.

- (1) The holder of a liquor store licence may, notwithstanding any law to the contrary -
- (a) on any day, excluding a closed day and Saturday, sell or deliver his or her liquor between 08:00 and 20:00; **[Para. (a) substituted by s. 37 (a) of Act No. 105 of 1993.]**
 - (b) on any Saturday, excluding a closed day, sell or deliver his or her liquor between 08:00 and 17:00. **[Para. (b) substituted by s. 37 (a) of Act No. 105 of 1993.]**
- (2) . **[Sub-s. (2) deleted by s. 37 (b) of Act No. 105 of 1993.]**
- (3) . **[Sub-s. (3) deleted by s. 37 (b) of Act No. 105 of 1993.]**

86. Supply of liquor for on-consumption.

- (1) An approval may, on application, be granted -
- (a) by the Board when granting a liquor store licence; or **[Para. (a) substituted by s. 30 of Act No. 57 of 1995.]**
 - (b) by the chairperson at any time after a liquor store licence was issued, to the holder of such liquor store licence to supply his or her liquor free of charge to a prospective client for consumption, solely for the purpose of tasting, in such place on the licensed or any adjoining or neighbouring premises, to be set apart for that purpose, as the chairperson or the Board may determine. **[Sub-s. (1) substituted by s. 38 (a) of Act No. 105 of 1993.]**
- (2) The chairperson may issue such an approval subject to such conditions set out in the approval as he or she or the Board, as the case may be, may in his or her or its discretion impose. **[Sub-s. (2) substituted by s. 38 (b) of Act No. 105 of 1993.]**
- (3) The chairperson may at any time after the issue of such an approval, by a notice delivered or tendered to the holder of the licence concerned -
- (a) declare the approval to be subject to such conditions or further conditions set out in the notice as he or she may in his or her discretion impose;
 - (b) withdraw or amend any condition or declaration imposed or made by him or her or the Board under this section; **[Para. (b) substituted by s. 38 (c) of Act No. 105 of 1993.]**
 - (c) on application, redetermine the place contemplated in subsection (1);
 - (d) withdraw any approval granted under subsection (1).

Grocers' wine licences

87. Nature of premises.

The holder of a grocer's wine licence or any other person shall at all times carry on the business of a general dealer (which shall include dealing in groceries and foodstuffs), and may carry on or pursue any other business (excluding a business to which any other licence relates) or trade or occupation, on the licensed premises.

88. Kind of liquor.

(1) The holder of a grocer's wine licence shall not sell liquor other than table wine.

(2) In the application of subsection (1) "table wine" means wine containing not more than 14 per cent by volume of alcohol. **[Sub-s. (2) substituted by s. 32 of Act No. 60 of 1989.]**

89. Capacity and condition of receptacles.

The holder of a grocer's wine licence shall not -

- (a) . **[Para. (a) deleted by s. 40 of Act No. 105 of 1993.]**
- (b) sell liquor in a receptacle which -
 - (i) has a capacity of more than five litres;
 - (ii) is not properly and securely sealed.

90. Times of business.

(1) The holder of a grocer's wine licence may, notwithstanding any law to the contrary -

(a) on any day, excluding a closed day and Saturday, sell or deliver his or her liquor between 08:00 and 20:00; **[Para. (a) substituted by s. 41 (a) of Act No. 105 of 1993.]**

(b) on any Saturday, excluding a closed day, sell or deliver his or her liquor between 08:00 and 17:00. **[Para. (b) substituted by s. 41 (a) of Act No. 105 of 1993.]**

(2) . **[Sub-s. (2) deleted by s. 41 (b) of Act No. 105 of 1993.]**

(3) . **[Sub-s. (3) deleted by s. 41 (b) of Act No. 105 of 1993.]**

Wine farmers' licences

91. Kind of liquor.

The holder of a wine farmer's licence shall not sell liquor other than wine which

(a) has been manufactured from grapes produced on land owned or lawfully occupied by him or her or, where that holder is an association of persons, that association or any member thereof; and

(b) has been manufactured on that land or in a central cellar owned or lawfully occupied by that holder or, where that holder is an association of persons, that association or any member thereof. **[S. 91 amended by s. 32 of Act No. 60 of 1989.]**

92. Capacity and condition of receptacles.

(1) The holder of a wine farmer's licence shall not -

- (a) . **[Para. (a) deleted by s. 42 (a) of Act No. 105 of 1993.]**
- (b) sell liquor in a receptacle which -
 - (i) has a capacity of more than five litres;
 - (ii) is not properly and securely sealed.

(2) Subsection (1) of this section shall not apply to -

- (a) the sale or supply of liquor -
 - (i) in the case of a holder of a wine farmer's licence which is a co-operative society as defined in section 1 of the Wine and Spirits Control Act, 1970 (Act No. 47 of 1970), to the members of that society;
 - (ii) in the case of all holders of wine farmers' licences, to -
 - (aa) a bona fide farmer;
 - (bb) the holder of an on-consumption licence.
- (b) . **[Para. (b) deleted by s. 42 (b) of Act No. 105 of 1993.]**

93. Times of business.

- (1) The holder of a wine farmer's licence may, notwithstanding any law to the contrary -
(a) on any day, excluding a closed day and Saturday, sell or deliver his or her liquor between 08:00 and 20:00; **[Para. (a) substituted by s. 43 (a) of Act No. 105 of 1993.]**
(b) on any Saturday, excluding a closed day, sell or deliver his or her liquor between 08:00 and 17:00. **[Para. (b) substituted by s. 43 (a) of Act No. 105 of 1993.]**
- (2) . **[Sub-s. (2) deleted by s. 43 (b) of Act No. 105 of 1993.]**
- (3) . **[Sub-s. (3) deleted by s. 43 (b) of Act No. 105 of 1993.]**

94. Supply of liquor for on-consumption.

- (1) An approval may, on application, be granted -
(a) by the Board when granting a wine farmer's licence; or **[Para. (a) substituted by s. 31 of Act No. 57 of 1995.]**
(b) by the chairperson at any time after a wine farmer's licence was issued, to the holder of such wine farmer's licence to supply his or her liquor free of charge to a prospective client for consumption, solely for the purpose of tasting, in such place on the licensed or any adjoining or neighbouring premises, to be set apart for that purpose, as the chairperson or the Board may determine. **[Sub-s. 1 substituted by s. 44 (a) of Act No. 105 of 1993.]**
- (2) The chairperson may issue such an approval subject to such conditions set out in the approval as he or she or the Board, as the case may be, may in his or her or its discretion impose. **[Sub-s. (2) substituted by s. 44 (b) of Act No. 105 of 1993.]**
- (3) The chairperson may at any time after the issue of such an approval, by a notice delivered or tendered to the holder of the licence concerned -
(a) declare the approval to be subject to such conditions or further conditions set out in the notice as he or she may in his or her or her discretion impose;
(b) withdraw or amend any condition or declaration imposed or made by him or the Board under this section; **[Para. (b) substituted by s. 44 (c) of Act No. 105 of 1993.]**
(c) on application, redetermine the place contemplated in subsection (1);
(d) withdraw any approval granted under subsection (1).

Sorghum beer brewers' licences

95. Kind of liquor.

- (1) The holder of a sorghum beer brewer's licence may only sell sorghum beer manufactured in the Republic or in any other country determined by the Minister by a notice in the Gazette.
- (2) The Minister may at any time by a like notice withdraw or amend any determination made under subsection (1).

96. Nature of business.

- (1) The holder of a sorghum beer brewer's licence shall not sell liquor to a person who is not the holder of a licence or an exempted person.
- (2) Subsection (1) of this section shall not apply to the sale of liquor for the purpose of section 51 (5).

97. Times of business.

The holder of a sorghum beer brewer's licence may, notwithstanding any law to the contrary, sell or deliver his or her liquor on any day, excluding a closed day, between 07h00 and 22h00.

Sorghum beer licences for off-consumption

98. Kind of liquor.

The holder of a sorghum beer licence referred to in section 20 (b) (vii) (hereinafter called a sorghum beer licence for off-consumption) may only sell sorghum beer procured from the holder of a licence.

99. Nature of premises.

The holder of a sorghum beer licence for off-consumption or any other person may conduct or pursue any business (excluding a business to which any other licence relates), trade or occupation on the licensed premises.

100. Times of business.

(1) The holder of a sorghum beer licence for off-consumption may, notwithstanding any law to the contrary -

(a) on any day, excluding a closed day and Saturday, sell or deliver his or her liquor between 08:00 and 20:00; **[Para. (a) substituted by s. 45 (a) of Act No. 105 of 1993.]**

(b) on any Saturday, excluding a closed day, sell or deliver his or her liquor between 08:00 and 17:00. **[Para. (b) substituted by s. 45 (a) of Act No. 105 of 1993.]**

(2) . **[Sub-s. (2) deleted by s. 45 (b) of Act No. 105 of 1993.]**

(3) . **[Sub-s. (3) deleted by s. 45 (b) of Act No. 105 of 1993.]**

Producers' licences

101. Kind of liquor.

(1) The holder of a producer's licence may -

(a) where he or she engages in viticulture, only sell wine which has been manufactured from grapes produced on land owned or lawfully occupied by him or her or, where the holder is an association of persons, any member thereof; or

(b) where he or she manufactures any alcoholic fruit beverage, only sell such beverage which has been manufactured from fruit produced on such land, or from fruit or the juice thereof purchased or otherwise procured by the holder or such a member, or from the juice of oranges together with canesugar, **[Para. (b) substituted by s. 32 of Act No. 60 of 1989.]** if such wine or beverage, as the case may be, has been manufactured on the land concerned or in a central cellar, factory or brewery owned or lawfully occupied by the holder or such a member.

(2) . **[Sub-s. (2) deleted by s. 32 of Act No. 60 of 1989.]**

102. Capacity and condition of receptacles.

(1) The holder of a producer's licence shall not sell or supply liquor -

(a) in a quantity of less than 4,5 litres;

(b) in a receptacle which -

(i) has a capacity of more than five litres;

(ii) is not properly and securely sealed.

(2) Subsection (1) of this section shall not apply to -

(a) the sale of liquor contemplated in section 101 (1) (a) -

(i) in the case of a holder of a producer's licence which is a co-operative society as defined in section 1 of the Wine and Spirits Control Act, 1970 (Act No. 47 of 1970), to the members of that society;

(ii) in the case of any holder of a producer's licence -

(aa) to a bona fide farmer or the holder of an on-consumption licence;

(bb) to a bona fide visitor, in a quantity of not less than 200 millilitres in a receptacle which has a capacity of not less than 200 millilitres and not more than five litres and is properly and securely sealed;

(b) the supply, for the purpose of section 104, of liquor contemplated in section 101 (1) (a) or (b) in a quantity of less than 200 millilitres.

103. Times of business.

The holder of a producer's licence may, notwithstanding any law to the contrary, sell or deliver his or her liquor on any day, excluding a closed day, between 08:00 and 20:00: Provided that the chairperson may, at any time, on application by the holder of such a licence, if in his or her opinion there are sound reasons for doing so, grant consent to that holder to sell his or her liquor on closed days. **[S. 103 substituted by s. 46 of Act No. 105 of 1993.]**

104. Supply of liquor for on-consumption.

(1) An approval may, on application, be granted -

(a) by the Board when granting a producer's licence; or **[Para. (a) substituted by s. 32 of Act No. 57 of 1995.]**

(b) by the chairperson at any time after a producer's licence was issued, to the holder of such producer's licence to supply his or her liquor free of charge to a prospective client for consumption, solely for the purpose of tasting, in such place on the licensed or any adjoining or neighbouring premises, to be set apart for that purpose, as the chairperson or the Board may determine. **[Sub-s. (1) substituted by s. 47 (a) of Act No. 105 of 1993.]**

(2) The chairperson may issue such an approval subject to such conditions set out in the approval as he or she or the Board, as the case may be, may in his or her or its discretion impose. **[Sub-s. (2) substituted by s. 47 (b) of Act No. 105 of 1993.]**

(3) The chairperson may at any time after the issue of such an approval, by a notice delivered or tendered to the holder of the licence concerned

(a) declare the approval to be subject to such conditions or further conditions set out in the notice as he or she may in his or her discretion impose;

(b) withdraw or amend any condition or declaration imposed or made by him or her or the Board under this section; **[Para. (b) substituted by s. 47 (c) of Act No. 105 of 1993.]**

(c) on application, redetermine the place contemplated in subsection (1);

(d) withdraw any approval granted under subsection (1).

CHAPTER 9

VALIDITY OF LICENCES

105. [Commencement of licenses](#)
106. [Lapse of temporary licenses and occasional licenses](#)
107. [Lapse of other licenses](#)
108. [Restoration of lapsed licenses](#)
109. [Effect of suspension of licenses](#)
110. [Sale of liquor after lapse or suspension of licenses](#)
111. [Fees not refundable](#)

105. Commencement of licences.

- (1) Subject to subsection (2) of this section, a licence which has been issued shall be valid -
- (a) if no fees have been prescribed under section 182 (1) (i) in respect of the issue thereof, as from the date of such issue;
 - (b) if any fees have in fact been so prescribed, as from the date on which such fees are paid.

(2) If any fees so prescribed are not paid in respect of an applicable licence before the expiration of the period so prescribed, that licence shall not acquire validity and the application for the licence shall be deemed not to have been granted.

106. Lapse of temporary liquor licences and occasional licences.

A temporary liquor licence or occasional licence shall lapse immediately after the expiration of the time for which it was granted.

107. Lapse of other licences.

A licence (excluding a temporary liquor licence and occasional licence) shall lapse -

- (a) on the date on which the holder abandons it in writing;
- (b) on 1 January of the year in respect of which the applicable fees prescribed under section 182 (1) (l) (if any) are not paid on or before 31 December of the preceding year;
- (c) on the date determined by the competent authority under section 15 (1) (b) (i) or 125 (b) when the competent authority withdraws the licence under the applicable section;
- (d) where the licence has already acquired validity in accordance with section 105, on the date on which a competent court sets aside the decision to grant or issue the licence;
- (e) on the date on which it is replaced by another licence under section 32A. **[Para. (e) added by s. 48 of Act No. 105 of 1993.]**

108. Restoration of lapsed licences.

A licence which has lapsed, and the rights, privileges, obligations and liabilities which were attached thereto immediately before the date on which it lapsed, shall, subject to section 36 (1), again become valid on the date on which -

- (a) where the licence has lapsed under the circumstances contemplated in section 107 (b), the fees so contemplated -
 - (i) plus a surcharge of 50% are paid on or before 31 January; or
 - (ii) plus a surcharge of 100% are paid on or before 28 February, of the year in respect of which those fees should have been paid;
- (b) where the licence has lapsed under the circumstances contemplated in section 107 (c), the decision by the competent authority under section 15 (1) (b) (i) or 125 (b) to withdraw that licence, is set aside by the court under section 132 or 134 (3), as the case may be; or **[Para. (b) substituted by s. 33 of Act No. 57 of 1995.]**
- (c) where the licence has lapsed under the circumstances contemplated in section 107 (d), the decision by the court to set aside the decision to grant or issue that licence, is set aside on appeal.

109. Effect of suspension of licences.

A licence which has been suspended -

- (a) shall not be valid while the suspension thereof is in force;
- (b) shall, subject to section 36 (1), together with the rights, privileges, obligations and liabilities which were attached thereto immediately before the date on which the suspension commenced, again become valid -
 - (i) where the licence has been suspended for a determined period -
 - (aa) after the expiration of that period;

(bb) as from the date on which the competent authority rescinds the suspension under section 15 (1) (d) or 125 (c) or the date determined by the competent authority under the applicable section when it so rescinds the suspension, as the case may be; or

(cc) as from the date on which the decision by the competent authority under section 15 (1) (b) (i) or 125 (b) to suspend the licence, is set aside by the court under section 132 or 134 (3), as the case may be; or **[Item (cc) substituted by s. 34 of Act No. 57 of 1995.]**

(ii) where the licence has been suspended for an indefinite time, as from the applicable date contemplated in subparagraph (i) (bb) or (cc).

110. Sale of liquor after lapse or suspension of licences.

(1) The holder of a licence which has lapsed or has been suspended may, within a period of 30 days after the date on which it has lapsed or the suspension thereof has commenced, through a licensed auctioneer sell by public auction, held on the licensed premises concerned or the premises of that auctioneer, any liquor which was on those premises on that date.

(2) If the holder of a licence which has lapsed under the circumstances contemplated in section 107 (c) or (d) or has been suspended under section 15 (1) (b) (i), has not availed himself or herself of subsection (1) of this section but has, within a period of 30 days after the date on which the licence has so lapsed or the suspension thereof has commenced, instituted judicial proceedings for the review of the decision concerned or noted an appeal against that decision, that holder may, within a period of 30 days after the date on which the decision concerned is confirmed on review or finally confirmed on appeal, as the case may be, or on which he or she abandons the review or appeal, mutatis mutandis avail himself or herself of subsection (1) of this section.

111. Fees not refundable.

The fact that a licence has lapsed or has been suspended or has again become valid shall not entitle the person who was or is the holder thereof, as the case may be, to a refund of any prescribed fees, or any part thereof, already paid in connection with the licence concerned.

CHAPTER 10

TRANSFER OF LICENSES

- 112. [Non-transferability of certain licenses](#)
- 113. [Applications](#)
- 114. [Consideration of applications](#)
- 115. [Disqualification and other incompetency](#)
- 116. [Issue of certificates of transfer](#)
- 117. [Death or incapability of prospective holders](#)
- 118. [Death or incapability of certain holders](#)

112. Non-transferability of certain licences.

A temporary liquor licence or occasional licence shall not be transferable to another person.

113. Applications.

The holder of a licence (excluding a temporary liquor licence and occasional licence) may at any time make application for the transfer thereof to another person (hereinafter called the prospective holder).

114. Consideration of applications.

- (1) The Board shall consider each application for the transfer of a licence and may -
 - (a) refuse the application; or
 - (b) grant the application. **[Sub-s. (1) amended by s. 35 (a) of Act No. 57 of 1995.]**
- (2) The Board shall not grant such an application -
 - (a) unless the prospective holder concerned -
 - (i) . . .
 - (ii) is of good character and is otherwise fit to be the holder of the licence;
 - (b) if the possibility exists that the granting of the application may cause a harmful monopolistic condition to arise or be aggravated in the liquor trade or a branch thereof. **[Sub-s. (2) amended by s. 49 of Act No. 105 of 1993 and substituted by s. 35 (a) of Act No. 57 of 1995.]**

115. Disqualification and other incompetency.

- (1) A licence shall not be transferred to a person who is disqualified or otherwise incompetent in terms of this Act to hold the licence concerned.
- (2) Subsection (1) of this section read with section 31, shall not be so construed as to -
 - (a) prohibit the granting of an application for the transfer of a licence -
 - (i) from one agent of any person to another agent of that person;
 - (ii) to a producer or a manufacturer of beer, or a person having a controlling interest in a company which is such a producer or manufacturer of beer, who has, with the consent of the Minister, granted under section 37 (1), directly or indirectly procured a financial interest in the business to which the licence concerned relates, or to the agent of that producer, manufacturer of beer or person; or
 - (iii) to a person (other than a producer or a manufacturer of beer, or a person having a controlling interest in a company which is a producer or manufacturer of beer) who has, with the consent of the Minister, granted under section 37 (2), directly or indirectly procured a financial interest in the business to which the licence concerned relates, or to the agent of that person;
 - (b) prohibit the transfer of a licence -
 - (i) held by, or by the agent of, a manufacturer of beer who on 4 May 1956 was a member of the Brewers' Institute of South Africa, to, or to the agent of, another manufacturer of beer who on that date was a member of that institute; or
 - (ii) held by a company, or the agent of a company, to a person who on 4 May 1956 held all the shares of that company, or to the agent of that person.
- (3) In the application of this section, "producer" *mutatis mutandis* has the meaning ascribed to it in section 31 (2).

116. Issue of certificates of transfer.

- (1) After the Board has granted an application for the transfer of a licence under section 114 (1) (b), the chairperson shall issue a certificate of transfer to a person named in the certificate. **[Sub-s. (1) amended by s. 50 (a) of Act No. 105 of 1993 and substituted by s. 36 of Act No. 57 of 1995.]**

(2) The effect of the issue of a certificate of transfer shall be that -

- (a) if no fees have been prescribed under section 182 (1) (j) in respect of the transfer thereof -
 - (i) the person who on the date immediately before the date of the issue of the certificate was the holder of the licence concerned shall as from the last-mentioned date cease to be such holder; and
 - (ii) the person to whom the certificate has been issued shall as from the last-mentioned date for all purposes become the holder of the licence;
- (b) if any fees have in fact been so prescribed -
 - (i) the person who on the date immediately before the date of the issue of the certificate was the holder of the licence concerned -
 - (aa) shall continue to be such holder unless the person to whom the certificate has been issued pays the applicable fees before the expiration of the period so prescribed or, if such fees are not paid before the expiration of the period so prescribed -
 - (A) he or she pays such fees plus a surcharge of 50% on or before the thirtieth day after the expiration of the period so prescribed; or
 - (B) he or she pays such fees plus a surcharge of 100% on or before the sixtieth day after the expiration of the period so prescribed; and **[Item (aa) substituted by s. 50 (b) of Act No. 105 of 1993.]**
 - (bb) shall cease to be such holder as from the date on which such fees or such fees and surcharge are so paid; and **[Item (bb) substituted by s. 50 (b) of Act No. 105 of 1993.]**
 - (ii) the person to whom the certificate has been issued -
 - (aa) shall not become the holder of the licence concerned unless he or she pays such fees or, if such fees are not paid before the expiration of the period so prescribed -
 - (A) he or she pays such fees plus a surcharge of 50% on or before the thirtieth day after the expiration of the period so prescribed; or
 - (B) he or she pays such fees plus a surcharge of 100% on or before the sixtieth day after the expiration of the period so prescribed; and **[Item (aa) substituted by s. 50 (c) of Act No. 105 of 1993.]**
 - (bb) shall as from the date on which such fees or such fees and surcharge are so paid for all purposes become the holder of the licence concerned. **[Item (bb) substituted by s. 50 (c) of Act No. 105 of 1993.]**

(3) If any fees prescribed under section 182 (1) (j) or surcharges referred to in subsection (2) (b) are not paid in respect of an applicable licence before the expiration of the period so prescribed or the periods referred to in subsection (2) (b), the certificate of transfer concerned shall lapse and the application for the transfer of that licence shall be deemed not to have been granted. **[Sub-s. (3) substituted by s. 50 (d) of Act No. 105 of 1993.]**

117. Death or incapability of prospective holders.

If a prospective holder dies, becomes insolvent, is placed under judicial management or is declared incapable of handling his or her own affairs on or before the date on which the application for the transfer of the licence concerned is considered -

(a) the administrator of the deceased or insolvent estate, judicial manager or curator concerned or, if such an administrator, manager or curator has not yet been appointed or the holder of that office is unable or unwilling to act, any other person who has an interest in the application and is authorized thereto by the Board, shall, subject to the law regarding deceased estates, insolvency, judicial management or mental health, have all such rights as the prospective holder would have had if he or she had not died, become insolvent, been placed under judicial management or been declared so incapable; and **[Para. (a) substituted by s. 37 of Act No. 57 of 1995.]**

(b) the Board may, subject to this Act and the said law, in its discretion grant the application in favour of the administrator, manager, curator or other person concerned. **[Para. (b) substituted by s. 37 of Act No. 57 of 1995.]**

118. Death or incapability of certain holders.

(1) If the holder of a licence (excluding a temporary liquor licence and occasional licence) dies, becomes insolvent, is placed under judicial management or is declared incapable of handling his or her own affairs -

(a) the administrator of the deceased or insolvent estate, judicial manager or curator concerned shall, subject to the law regarding deceased estates, insolvency, judicial management or mental health, as from the date of his or her appointment as such, for all purposes become the holder of the licence;

(b) the administrator of the deceased or insolvent estate, judicial manager or curator concerned may, for the purposes of the administration or management of the estate concerned, conduct the business to which the licence relates.

(2) The chairperson may, on application by any person and if satisfied that every person who has a financial interest in the business contemplated in subsection (1) has been given reasonable notice of the application, appoint any person who is not disqualified or otherwise incompetent in terms of this Act to hold the licence concerned, to conduct that business until the appointment of the administrator, manager or curator so contemplated, and a person so appointed shall, subject to the law regarding deceased estates, insolvency, judicial management or mental health, for the period of his or her appointment for all purposes be deemed to be the holder of the licence.

(3) If the only member of a company or close corporation which is the holder of a licence dies, becomes insolvent, is placed under judicial management or is declared incapable of handling his or her own affairs, subsections (1) and (2) shall, notwithstanding any law to the contrary, mutatis mutandis apply to that company or corporation.

CHAPTER 11

REMOVAL OF LICENCES

119. [Non-removability of certain licenses](#)
120. [Applications](#)
121. [Considerations of applications](#)
122. [Issue of certificates of removal](#)
123. [Incomplete premises](#)

119. Non-removability of certain licences.

A temporary liquor licence or occasional licence shall not be removable from the licensed premises concerned to other premises.

120. Applications.

The holder of a licence (excluding a temporary liquor licence and occasional licence) may at any time make application for the removal, whether permanently or temporarily, of the licence from the licensed premises concerned to other premises situated in the same district as the licensed premises.

121. Consideration of applications.

- (1) The Board shall consider each application for the removal of a licence and may -
 - (a) refuse the application; or
 - (b) grant the application. **[Sub-s. (1) substituted by s. 38 (a) of Act No. 57 of 1995.]**
- (2) The Board shall not grant such an application -
 - (a) in the case of a wine farmer's licence, unless the premises in respect of which the application is made, are situated at a place other than the place where the liquor concerned is manufactured; **[Para. (a) substituted by s. 38 (c) of Act No. 57 of 1995.]**
 - (b) in the case of any licence -
 - (i) unless -
 - (aa) . **[Item (aa) deleted by s. 51 of Act No. 105 of 1993.]**
 - (bb) the premises are or will on completion be suitable for the purposes for which they will be used under the licence;
 - (cc) if the premises are situated in the vicinity of a place of worship or school or in a residential area, the business will be carried on in a manner that would not disturb the proceedings in that place of worship or school or prejudice the residents of that residential area;
 - (dd) the removal of the licence to those premises is in the public interest; **[Sub-para. (i) amended by s. 38 (d) of Act No. 57 of 1995.]**
 - (ii) if the possibility exists that the granting of the application may cause a harmful monopolistic condition to arise or be aggravated in the liquor trade or a branch thereof. **[Sub-s. (2) amended by s. 38 (b) of Act No. 57 of 1995. Sub-para. (ii) substituted by s. 38 (e) of Act No. 57 of 1995.]**

122. Issue of certificates of removal.

- (1) The chairperson may, after the Board has granted an application for the removal of a licence under section 121 (1) (b) or 15 (1) (a) (iii), but subject to section 123, issue a certificate of removal to the holder of the licence concerned. **[Sub-s. (1) substituted by s. 39 of Act No. 57 of 1995.]**
- (2) A certificate of removal shall be subject to such conditions set out in the certificate as the chairperson or the Board, as the case may be, may in his or her or its discretion impose.
- (3) The chairperson may at any time after the issue of a certificate of removal, by a notice delivered or tendered to the holder of the licence concerned, withdraw or amend any condition imposed by him or her or the Board under subsection (2).
- (4) (a) The effect of the issue of a certificate of removal shall be that -
 - (i) if no fees have been prescribed under section 182 (1) (k) in respect of the removal of the licence concerned, the holder of the licence shall, as from a date determined by the chairperson or the Board, as the case may be, and mentioned in the certificate, either permanently or for the period so determined and mentioned; or

(ii) if any fees have in fact been so prescribed, the holder of the licence shall, as from the date on which the applicable fees have been paid before the expiration of the period so prescribed or, if such fees are not paid before the expiration of the period so prescribed, after payment of -

(aa) such fees plus a surcharge of 50% on or before the thirtieth day after the expiration of the period so prescribed; or

(bb) such fees plus a surcharge of 100% on or before the sixtieth day after the expiration of the period so prescribed, either permanently or for the period determined by the chairperson or the Board, as the case may be, and mentioned in the certificate, **[Sub-para. (ii) substituted by s. 52 (a) of Act No. 105 of 1993.]** conduct the business to which the licence relates on the premises (the plan of which has been approved by the chairperson or the Board, as the case may be, but which premises shall not for the purposes of the licence include such place or places thereon as he or she or it has in his or her or its discretion specifically excluded therefrom) in respect of which the application concerned was made.

(b) If any fees so prescribed or surcharges referred to in paragraph (a) have not been paid in respect of an applicable licence before the expiration of the period so prescribed or the periods referred to in paragraph (a), the certificate of removal concerned shall lapse and the application for the removal of that licence shall be deemed not to have been granted. **[Para. (b) substituted by s. 52 (b) of Act No. 105 of 1993.]**

(5) Where a certificate of removal permits the removal of a licence to other premises for a determined period, the chairperson may at any time before the expiration of that period, on application by the holder of the licence concerned

- (a) extend that period; or
- (b) withdraw the certificate.

123. Incomplete premises.

(1) If an application for the removal of a licence is granted by the Board in respect of premises not yet erected, or premises requiring any structural alteration, addition or reconstruction to be effected so as to make them suitable for the purposes for which they will be used under the licence, the chairperson shall issue a notice to the applicant concerned in which he or she shall be ordered to comply with such conditions or requirements, referred to in the notice, with regard to those premises as the chairperson may determine, within such period as may likewise be determined and referred to. **[Sub-s. (1) substituted by s. 40 (a) of Act No. 57 of 1995.]**

(2) The chairperson may at any time after the issue of such a notice, on application by the applicant concerned -

- (a) withdraw or amend any condition or requirement determined under subsection (1);
- (b) extend the period determined under subsection (1);
- (c) extend or further extend the period determined under subsection (1) or the period so determined and extended under paragraph (b) of this subsection, as the case may be, in respect of premises not yet erected at the time of the issue of the notice, if he or she is satisfied that a substantial part of the premises has since been erected;
- (d) approve an amended plan in respect of the premises. **[Para. (d) added by s. 40 (b) of Act No. 57 of 1995.]**

(3) The period determined under subsection (1) or the period so determined and extended under subsection (2) (b), as the case may be, shall not be longer than 24 months, and the period extended or further extended under subsection (2) (c), as the case may be, shall not be longer than a further 12 months

(4) When the chairperson is satisfied that the premises in respect of which a notice has been issued under subsection (1), have been completed in accordance with the plan thereof approved by the chairperson or the Board, as the case may be, the conditions and requirements determined by the chairperson have been complied with and the premises are suitable for the purposes for which they will be used under the licence concerned, he or she shall issue the certificate of removal in accordance with section 122 (1).

(5) If the certificate of removal is not issued before the expiration of the period determined under subsection (1) or extended under subsection (2) (b) or further extended under sub-section (2) (c), as the case may be, the notice concerned shall lapse and the application for the removal of the licence shall be deemed not to have been granted.

CHAPTER 12

SPECIAL POWERS IN CONNECTION WITH SALE, SUPPLY AND DISTRIBUTION OF LIQUOR

- 124. [Member of Executive Council may refer matters to board](#)
- 125. [Member of Executive Council's powers after recommendations or reports by board](#)
- 126. [Closing of licensed and other premises](#)
- 127.. [\[S.127 repealed by s.53 of Act No. 105 of 1993\]](#)
- 128. [Prohibition of sale of liquor](#)
- 129.. [\[S.129 repealed by s.54 of Act No. 105 of 1993\]](#)

124. Member of Executive Council may refer matters to Board.

The Member of the Executive Council may in his or her discretion refer any matter arising from the application of this Act or relating to the distribution, or control over the distribution, of liquor to the Board for consideration and request the Board to advise him or her, or to furnish him or her with a report or recommendation, on the matter concerned. *[S. 124 substituted by s. 41 of Act No. 57 of 1995.]*

125. Member of Executive Council's powers after recommendations or reports by Board.

If the Board furnishes the Member of the Executive Council with a recommendation contemplated in section 15 (2), the Member of the Executive Council may, after consideration of the recommendation, the report by the Board (if any) and any other matter which ought to be taken into consideration -

- (a) notwithstanding the recommendation, refuse to take the recommended steps;
- (b) suspend for an indefinite time or for such period as he or she may determine, or withdraw from such date as he or she may determine, a licence which is the subject of the recommendation, or any right or privilege which is attached thereto;
- (c) rescind the suspension of the licence concerned or of any right or privilege which is attached thereto, with immediate effect or from such date as he or she may determine, subject to such conditions as he or she may in his or her discretion impose; or
- (d) declare the licence concerned to be subject to such conditions or further conditions as he or she may in his or her discretion impose. *[S. 125 substituted by s. 42 of Act No. 57 of 1995.]*

126. Closing of licensed and other premises.

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

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

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

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

127. . . [S. 127 repealed by s. 53 of Act No. 105 of 1993.]

128. Prohibition of sale of liquor.

(1) If he or she is satisfied from information on oath that the fact that liquor is being sold on particular licensed premises gives rise to circumstances on or near those premises which probably warrant the suspension or withdrawal of the licence concerned or of any right or privilege attached thereto, the Member of the Executive Council may, after consultation with the chairperson and after having afforded the holder of the licence an opportunity to make representations with regard to the matter to him or her

within a period of seven days, by a notice delivered or tendered to that holder, prohibit him or her from selling liquor until the Board has had the opportunity to consider the matter and has taken such steps under section 15 as shall or may be taken in the circumstances of the case. **[Sub-s. (1) substituted by s. 43 (a) of Act No. 57 of 1995.]**

(2) A notice under subsection (1) -

(a) may at any time before the Board considers the matter which is the subject of the notice, be withdrawn by the Member of the Executive Council by a like notice; **[Para. (a) substituted by s. 43 (b) of Act No. 57 of 1995.]**

(b) shall lapse if a meeting of the Board to consider that matter is not convened within 60 days after the notice has been delivered or tendered to the holder of the licence concerned, as the case may be.

129. . .[S. 129 repealed by s. 54 of Act No. 105 of 1993.]

CHAPTER 13

FURNISHING OF REASONS, REVIEWS AND APPEALS

130. [Reasons for decisions by competent authority](#)
131. [Grounds for review](#)
132. [Powers on review](#)
- 133.. [\[S. 133 repealed by s. 45 of Act No. 57 of 1995\]](#)
134. [Appeals to supreme court](#)

130. Reasons for decisions by competent authority.

(1) A person who has made any application, objection or representations in terms of this Act and who feels aggrieved by a decision made by the competent authority in connection with the application, objection or representations, may make application to the competent authority that the competent authority furnish reasons for that decision. **[Sub-s. (1) substituted by s. 44 (a) of Act No. 57 of 1995.]**

(2) The competent authority shall, after receipt of the last-mentioned application, within the prescribed time and in the prescribed manner furnish its reasons for the decision concerned.

(3) . **[Sub-s. (3) deleted by s. 44 (b) of Act No. 57 of 1995.]**

131. Grounds for review.

The court of a division of the Supreme Court may, at the instance of a person who has made any application, objection or representations in terms of this Act and who feels aggrieved by a decision made by the competent authority in connection with that application, objection or representations, review the decision only if the court is satisfied -

(a) that the competent authority exceeded its powers or refused to exercise a power which it was obliged to exercise or exercised a power in an arbitrary or mala fide or grossly unreasonable manner; or

(b) where that decision was made by the Board, that a member of the Board who was in terms of section 10 disqualified from sitting on the Board, sat on the Board in the consideration of the matter in respect of which the decision was made.

132. Powers on review.

The court reviewing a decision of the competent authority in terms of section 131, may, if the court is satisfied that -

(a) any of the grounds for review referred to in that section has been proved; and

(b) the applicant has been substantially prejudiced by the decision, set aside the decision, and shall, in setting aside the decision, unless in its opinion exceptional circumstances warrant another order, issue an order that the competent authority consider afresh the matter in respect of which the decision was made.

133. . [S. 133 repealed by s. 45 of Act No. 57 of 1995.]

134. Appeals to Supreme Court.

(1) A person who has made any application, objection or representations in terms of this Act and who feels aggrieved by a decision on a question of law made by the competent authority in connection with the application, objection or representations, may appeal to the court of a division of the Supreme Court against the decision.

(2) Such an appeal shall be noted and prosecuted as if it were an appeal against a judgment in a magistrate's court in civil proceedings.

(3) If the court, after considering the appeal, is satisfied that the competent authority has misdirected itself in the making of the decision concerned, the court may set aside that decision, and shall in setting aside the decision, unless in its opinion exceptional circumstances warrant another order, issue an order that the competent authority consider afresh the matter in respect of which the decision was made.

CHAPTER 14

PROHIBITED AND CONTROLLED LIQUIDS

135. [Prohibited concoctions and drinks](#)

136. [Methylated spirit](#)

135. Prohibited concoctions and drinks.

(1) No person shall manufacture, have in his or her possession or custody or under his or her control or consume or sell, supply or give to any person -

(a) any concoction manufactured by the fermentation of treacle, sugar or other substances and known as isityimiyana, hopana, qediviki, skokiaan, uhali or barberton;

(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 Minister, 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 Minister may at any time by a like notice withdraw or amend any notice issued under subsection

(1) (c).

136. Methylated spirit.

(1) The Minister may make regulations regarding -

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

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

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

(d) the custody and retention of records or other documents contemplated in paragraph (c);

(e) the denaturation, odorization, colouring and rendering impotable of methylated spirit sold or kept for sale, and the manner in which this shall be done;

(f) the quantities of methylated spirit which may be sold on any occasion to any person and the receptacles in which it shall be sold;

(g) the prohibition or restriction of the purchase or possession of methylated spirit, including the granting of permits for the purchase or possession thereof;

(2) A regulation made under this section may for a contravention thereof or failure to comply therewith prescribe a penalty which shall not exceed a fine of R1 000 or imprisonment for a period of six months.

(3) Different regulations may be made under this section in respect of different categories of persons or different areas.

CHAPTER 15

INSPECTORS AND POLICE OFFICERS

Designation and functions of inspectors

137. [Designation of inspectors](#)

138. [Powers of inspectors](#)

Designation and functions of certain police officers

139. [Designation of police officers for certain purposes](#)

140. [Reports on applications](#)

141. [Reports on certain holders and premises](#)

142. [Reports on certain convictions](#)

Powers of police officers in general

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144. [Search and seizure in connections with methylated spirit](#)

145. [Demanding of names and addresses](#)

Designation and functions of inspectors

137. Designation of inspectors.

(1) The Member of the Executive Council may designate any person in the employ of the State as an inspector for the purposes of this Act. **[Sub-s. (1) substituted by s. 46 (a) of Act No. 57 of 1995.]**

(2) An inspector shall perform -

(a) such functions of a designated police officer as the Member of the Executive Council may determine; and

(b) such other functions in connection with the administration of this Act as may be assigned to him or her by the Member of the Executive Council. **[Sub-s. (2) substituted by s. 46 (b) of Act No. 57 of 1995.]**

(3) An inspector shall be provided with a certificate, signed by the Member of the Executive Council, declaring that he or she has been designated as an inspector for the purposes of this Act. **[Sub-s. (3) substituted by s. 46 (c) of Act No. 57 of 1995.]**

(4) An inspector performing any function by virtue of subsection (2) shall on demand by any person affected by the performance of that function exhibit the certificate with which he or she has been provided in terms of subsection (3), to that person.

138. Powers of inspectors.

(1) An inspector may in the performance of his or her functions -

(a) at all reasonable times enter any licensed premises, any premises in respect of which an application for a licence has been made or any premises on or place in which liquor may be sold without a licence, and, after having informed the person who is then in charge of the premises or place of the purpose of his or her visit, make such investigation and enquiry as he or she may think necessary;

(b) at any time demand from any person that he or she forthwith or at a time and place fixed by the inspector produce to him or her any record or other document which is in the possession or custody or under the control of that person or any other person on his or her behalf;

(c) inspect such a record or other document and make copies thereof or extracts therefrom, and demand from any person contemplated in paragraph (b) an explanation of any entry therein, and seize such a record or other document if in his or her opinion it may afford evidence of an offence in terms of this Act;

(d) either alone or in the presence of any other person, as he or she may think fit, question the holder of any licence, or any person who manages and is responsible for the business to which a licence relates or who has made an application for a licence, or any exempted person, or any employee of that holder or person, or any person whom he or she finds on premises or in a place entered by him or her in terms of paragraph (a) or whom he or she on reasonable grounds suspects to have the possession or custody of or the control over any record or other document, with regard to any matter which he or she is investigating;

(e) order any person contemplated in paragraph (b) or (d) to appear before him or her at a time and place fixed by the inspector, and at that time and place question that person with regard to any matter which he or she is investigating.

(2) Any person who is in charge of any premises or place contemplated in subsection (1) shall at all reasonable times while an inspector is on those premises or in that place render such assistance as that inspector may require in the exercise of his or her powers under that subsection.

Designation and functions of certain police officers

139. Designation of police officers for certain purposes.

The Member of the Executive Council responsible for Safety and Security may designate any police officer of or above the rank of warrant officer to perform the functions of a designated police officer in terms of this Act. *[S. 139 substituted by s. 55 of Act No. 105 of 1993 and by s. 47 of Act No. 57 of 1995.]*

140. Reports on applications.

A designated police officer shall -

(a) in respect of every prescribed application made in terms of this Act, report to the competent authority on such matters as may be prescribed or which ought, in the opinion of that officer, to be taken into consideration in respect of the application concerned;

(b) at the request of the competent authority, furnish such information or further information in connection with any matter to the competent authority as may be requested from him or her.

141. Reports on certain holders and premises.

A designated police officer shall, as soon as possible after the fact concerned has come to his or her notice, submit to the chairperson a report -

(a) on any failure by the holder of a licence (excluding a temporary liquor licence and occasional licence) to discharge an obligation which is attached to the licence concerned;

(b) if such a holder becomes disqualified or otherwise incompetent in terms of this Act to hold the licence concerned;

(c) if he or she is of the opinion that alterations or repairs ought to be effected to any licensed premises to which a licence other than a hotel liquor licence relates;

(d) on any other matter which in the opinion of that officer ought to be brought to the notice of the Board.

142. Reports on certain convictions.

When the holder of a licence or a person who has been appointed in terms of section 39 (1) to manage and be responsible for a business under a licence has been convicted of an offence in terms of either this Act or any other law or the common law and is sentenced therefor to a fine of not less than R1 000 or to imprisonment without the option of a fine, a designated police officer shall submit to the chairperson a report on the conviction and the circumstances of the offence.

Powers of police officers in general

143. Search and inspection in general.

A police officer may -

(a) during the times when the holder of a licence is authorized in terms of this Act to sell or supply liquor, enter and inspect any part of the premises concerned or any place where liquor is stored by virtue of a determination under section 51 (1) or (2), and take stock of all liquor found on those premises or in that place;

(b) at any time enter and search any premises, place or vehicle, or search any person or object, whether found on those premises or in that place or vehicle or not, if -

(i) there are reasonable grounds to suspect that an offence in terms of this Act is being committed on those premises or in that place or vehicle, or is being committed by that person or by means of that vehicle or object, or that it is being used in connection with the commission of such an offence; or

(ii) there are reasonable grounds to suspect that -

(aa) that person has in his or her possession any liquor, vehicle or object;

(bb) any liquor, vehicle or object is kept on those premises or in that place;

(cc) liquor is kept in that vehicle or object;

(dd) any object is kept in that vehicle; or

(ee) any object is kept in any receptacle, in contravention of this Act or in connection with such a contravention;

(c) enter any premises on or place in which liquor is being sold and demand that the licence authorizing such sale be produced to him or her;

(d) at any time inspect any record or other document required to be kept by virtue of this Act;

(e) at the request of the holder of a licence or his or her agent or employee, remove or assist in removing from the licensed premises concerned any person contemplated in section 46 (e) or remove from the licensed premises concerned any person who refuses or fails to comply with a request contemplated in section 46 (c) or (d).

144. Search and seizure in connection with methylated spirit.

A police officer or an officer as defined in section 1 (1) of the Customs and Excise Act, 1964 (Act No. 91 of 1964), may, in the performance of his or her functions as such -

(a) at any time enter and search the premises of a person who is authorized in terms of this Act to sell methylated spirit, inspect any record or other document required to be kept by virtue of this Act and take stock of all methylated spirit found on the premises;

(b) at any time enter and search the premises of a person whom he or she suspects on reasonable grounds of unlawfully importing, keeping, selling, supplying or using methylated spirit;

(c) on premises so entered seize any methylated spirit kept in contravention of this Act.

145. Demanding of names and addresses.

A police officer may -

(a) demand the name and address of any person whom he or she finds on premises or in a place or vehicle from which he or she removes or on or in which he or she seizes any liquor, methylated spirit or object under this Act or any other law;

(b) if such a person refuses or fails to furnish his or her full name and address so demanded, arrest that person;

(c) if such a person, when his or her name and address is so demanded, furnishes a name and address which that officer on reasonable grounds suspects to be false or misleading, arrest and detain that person for a period of not more than 12 hours until the name and address so furnished have been verified

CHAPTER 16

JUDICIAL AND RELATED MATTERS

Voidness of certain arrangements

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Voidness of certain arrangements

146. Financial interests.

A contract in terms of which a financial interest is procured in conflict with section 37 (1) or (2) shall be void.

147. . . [S. 147 repealed by s. 56 of Act No. 105 of 1993.]

148. Relinquishing or forgoing of certain rights, privileges, obligations and liabilities.

Unless this Act specifically or by necessary implication permits such a provision, a contract which contains a provision whereby a person purports to relinquish or forgo a right, privilege, obligation or liability in terms of this Act, shall be void irrespective of whether the contract was concluded before or after the commencement of this Act.

149. Repayment of money loans.

A condition in a mortgage bond or contract in terms of which the repayment of money loaned to the holder of a licence by the holder of a wholesale liquor licence, brewer's licence or sorghum beer brewer's licence, or of any part thereof, before a particular time is prohibited, shall be void.

Judicial proceedings against or by competent authority

150. Service of process.

In any judicial proceedings instituted against the competent authority, the service on the chairperson and at the office of the State Attorney if it is, or the branch of that office that is, situated in the area of jurisdiction of the court concerned, of any process or any document whereby the proceedings are instituted, shall be sufficient service on the competent authority.

151. Intermediation of State Attorney.

No steps shall be taken by the competent authority in any judicial proceedings contemplated in section 150, and no judicial proceedings shall be instituted by the competent authority, except with the intermediation of the State Attorney.

152. Notices of intention to defend.

The time to be allowed for the delivery of a notice of intention to defend in any judicial proceedings contemplated in section 150 shall, notwithstanding any law to the contrary, be not less than one month after service of the document whereby the proceedings are instituted, unless the court concerned has in a particular case authorized a shorter period.

153. Costs.

The costs incurred by the competent authority in connection with any judicial proceedings contemplated in section 151 shall, unless the court concerned orders the costs to be borne by the opposite party or by the competent authority de bonis propriis, be paid out of the State Revenue Fund.

Offences

154. Offences in general.

(1) Any person who -

- (a) sells any liquor otherwise than under a licence or an exemption by or under section 3 or 4;
- (b) is drunk, violent or disorderly on any premises, whether licensed or not, on which liquor may by virtue of this Act be sold;
- (c) is drunk in or on or near -
 - (i) any road, street, lane, thoroughfare, square, park or market;
 - (ii) any shop, warehouse or public garage; or
 - (iii) any place of entertainment, café, eating-house or race-course or any other premises or place to which the public has or is granted access (irrespective of whether access is granted against payment or is restricted to any category of persons or not);
- (d) subject to subsection (2), consumes any liquor in any road, street, lane or thoroughfare, or on vacant land adjacent thereto, in an urban area or other area subdivided into erven or plots with streets bounded by such erven or plots;
- (e) consumes or possesses any liquor on any private premises without the consent of the owner or lawful occupier of those premises first having been obtained;
- (f) introduces, possesses or consumes any liquor on a sportsground, or any part thereof, to which the public has or is granted access (irrespective of whether access is granted against payment or is restricted to any category of persons or not), except -
 - (i) on any licensed premises situated on the sportsground concerned; or
 - (ii) in so far as a declaration under subsection (4) applies thereto;
- (g) being a person who owns a sportsground in respect of which a declaration under subsection (4) applies or who lawfully occupies such a sportsground, refuses or fails to comply with any condition to which that declaration is subject;
- (h) falsely represents himself or herself or any other person to belong or not to belong to a category of persons in order to persuade the holder of a licence, 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;
- (i) being the holder of a licence or an exempted person or the manager or agent of such a holder or person, on receipt of an order given under section 126 (1) refuses or fails to comply with it forthwith;
- (j) contravenes section 135 (1); or
- (k) supplies liquor to a person in his or her employ as wages or remuneration or as a supplement therefor, shall be guilty of an offence.

(2) Subsection (1) (d) shall not apply with regard to -

- (a) the consumption of liquor on vacant land contemplated in that subsection if the liquor has been sold on that land under an on-consumption licence;
- (b) a social occasion held on that land by a person who owns or lawfully occupies the land; or
- (c) the use of that land by that person in the ordinary course of his or her occupation thereof.

(3) In the application of subsection (1) (e), any person occupying the premises concerned as an employee of the owner or lawful occupier of the land on which those premises are situated, shall be deemed not to be the lawful occupier of the premises.

(4) The chairperson may, on application by a person who owns or lawfully occupies a sportsground and subject to such conditions set out in the declaration as the chairperson may in his or her discretion impose, declare that subsection (1) (f) shall not apply in respect of the sportsground concerned or any part thereof for the purposes of a particular occasion.

155. Offences regarding information.

Any person who -

(a) in connection with any application, objection, representations, reply to any objection or representations or complaint in terms of this Act, submits or provides any information which he or she knows to be false or misleading or does not know whether it is true, or any false document or document which purports to be but is not a true copy of an original document; or

(b) refuses or fails to comply with a request contemplated in section 48, or on such a request furnishes any information which is false or misleading, knowing it to be false or misleading, [**Para. (b) substituted by s. 57 of Act No. 105 of 1993.**] shall be guilty of an offence.

156. Offences regarding meetings of Board.

Any person who -

(a) fails to appear before the Board on the date and at the time and place set out in the notice without having appointed an advocate or attorney or any other person to so appear on his or her behalf;

(b) appears before the Board by virtue of a notice in terms of section 12 (1), but without the leave of the chairperson fails to remain in attendance at the meeting concerned until the conclusion thereof;

(c) having been summonsed in terms of section 12 (4) to appear at a meeting of the Board -

(i) fails so to appear on the date and at the time and place set out in the summons; or

(ii) appears before the Board by virtue of the summons, but without the leave of the chairperson fails to remain in attendance at the meeting concerned until the conclusion thereof;

(d) having in terms of section 13 (4) (a) been called upon by the chairperson to give evidence, refuses to give evidence;

(e) having in terms of section 13 (4) (b) been ordered by the chairperson to produce to the Board any document or any other thing which is in his or her possession or custody or under his or her control, refuses or fails to comply with the order;

(f) having in terms of section 13 (6) been required by the chairperson to give evidence under oath or after the making of an affirmation, refuses to take the oath or make the affirmation;

(g) the oath or affirmation having in terms of section 13 (7) been administered to him or her, refuses or fails to reply to the best of his or her knowledge to any relevant question put to him or her or furnishes a reply thereto which is false or misleading, knowing it to be false or misleading;

(h) refuses or fails to comply with a direction under section 14 (2); or

(i) wilfully interrupts the proceedings at a meeting of the Board or wilfully hinders or obstructs the Board or any member thereof in the performance of his or her functions at the meeting, shall be guilty of an offence.

157. Offences regarding inspectors and police officers.

Any person who -

(a) falsely holds himself or herself out to be an inspector;

(b) refuses or fails to answer to the best of his or her knowledge any relevant question which an inspector has in the exercise of his or her powers put to him or her;

(c) makes a relevant statement to an inspector which is false or misleading in any material respect, knowing it to be false or misleading;

(d) refuses or fails to comply to the best of his or her ability with any lawful demand, order or requirement of an inspector;

(e) hinders or obstructs an inspector in the exercise of his or her powers; or

(f) refuses or fails to comply with a demand contemplated in section 145 (a), or on such a demand furnishes any name or address which is false or misleading, knowing it to be false or misleading, shall be guilty of an offence.

158. Offences regarding liquor trade.

(1) Any person who -

(a) enters into or is a party to a tie which is not permitted by virtue of subsection (2); or

(b) contravenes section 37 (1) or (2), shall be guilty of an offence.

(2) The Minister may, on application by any one of the prospective parties concerned, grant consent to the entry into a tie to which a manufacturer of liquor and the holder of a wholesale liquor licence or an applicant for such a licence will be the parties.

(3) In the application of this section, "tie" means any agreement, understanding or condition whereby any person is directly or indirectly bound at any time -

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

159. Offences by holders of licences in general.

The holder of a licence who -

- (a) if it is not otherwise an offence in terms of this Act, refuses or fails to comply with a condition which is attached to the licence;
- (b) contravenes section 38 (1);
- (c) keeps the licensed premises open for the sale, supply or consumption of liquor or sells or supplies any liquor at a time when the sale of liquor is not permitted by the licence;
- (d) delivers any liquor at a time when the delivery of liquor is not permitted by the licence;
- (e) sells or supplies liquor in a place where the sale or supply of liquor is not permitted by the licence;
- (f) contravenes section 39 (1), 40 (1), 42, 44 (1) (a) or 47 (1); **[Para. (f) substituted by s. 58 (a) of Act No. 105 of 1993.]**
- (fA) contravenes section 45 (a); **[Para. (fA) inserted by s. 58 (b) of Act No. 105 of 1993.]**
- (g) fails to keep any additional record which he or she is by virtue of section 47 (2) required to keep, or keeps such a record in an inadequate or improper manner;
- (h) contravenes section 49 (b); or **[Para. (h) substituted by s. 58 (c) of Act No. 105 of 1993.]**
- (i) refuses or fails to comply with a notice under section 128 (1), shall be guilty of an offence.

160. Offences by holders of on-consumption licences.

The holder of an on-consumption licence who -

- (a) allows drunkenness or licentious conduct on the licensed premises;
- (b) sells or supplies liquor to a person who is in a state of intoxication;
- (c) allows the licensed premises to be used as a brothel or to be frequented by persons who are regarded as prostitutes;
- (d) allows any person -
 - (i) to perform an offensive, indecent or obscene act; or
 - (ii) who is not clothed or not properly clothed, to perform or to appear, on a part of the licensed premises where entertainment of any nature is presented or to which the public has access; or
- (e) contravenes section 44 (1) (b), 45 (b) or 52, **[Para. (e) substituted by s. 59 of Act No. 105 of 1993.]** shall be guilty of an offence.

161. Offences by holders of off-consumption licences.

The holder of an off-consumption licence who -

- (a) contravenes section 73, 74 (1), 84 (1), 89, 92 (1) or 102 (1); **[Para. (a) substituted by s. 60 (a) of Act No. 105 of 1993.]**
- (b) . **[Para. (b) deleted by s. 60 (b) of Act No. 105 of 1993.]**
- (c) opens or allows to be opened on the licensed premises any receptacle containing liquor sold by him or her, shall be guilty of an offence.

162. Offences by holders of sundry licences.

The holder of a wine-house licence, sorghum beer licence, special licence or producer's licence who contravenes or refuses or fails to comply with a provision of this Act which applies to that licence by virtue of a declaration under section 32 (3) or 60 (3), as the case may be, the contravention of which or the

refusal or failure to comply with which constitutes an offence in terms of this Act by the holder of a kind of licence other than the licence concerned, shall be guilty of an offence.

Punitive jurisdiction

163. Penalties.

(1) Any person who is guilty of an offence in terms of this Act, shall on conviction be liable -

(a) in the case of an offence referred to in section 154 (1) (a) or (i) or 159 (a), (b), (fA) or (i), to a fine or to imprisonment for a period of not more than five years; [**Para. (a) substituted by s. 61 (a) of Act No. 105 of 1993.**]

(b) in the case of an offence referred to in section 154 (1) (b) to (h) or (j) to (k), 155, 156, 157, 158, 159 (c) to (f) or (g) and (h), 160 or 161, to a fine or to imprisonment for a period of not more than six months; and [**Para. (b) substituted by s. 61 (b) of Act No. 105 of 1993.**]

(c) in the case of an offence referred to in section 162, to the same penalties to which the holder of the other kind of licence concerned is liable for the corresponding offence.

(2) Any person who is convicted of an offence contemplated in subsection (1) within a period of five years after he or she was convicted of any offence contemplated in that subsection, shall be liable to double the fine or imprisonment which may be imposed for that offence, or to both that fine and that imprisonment.

164. Competency to impose penalties.

Notwithstanding any law to the contrary, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

Vicarious responsibility

165. Holders of licences.

When the manager of the business to which a licence relates, the agent or employee of the holder of a licence or a member of the family of such a holder or manager does or omits to do any act which it would be an offence in terms of this Act for the holder concerned to do or omit to do, that holder shall be deemed himself or herself to have done or omitted to do the act, unless he or she satisfies the court that -

(a) he or she neither connived at nor permitted the act or omission by the manager, agent, employee or member concerned;

(b) he or she took all reasonable steps to prevent the act or omission; and

(c) an act or omission, whether lawful or unlawful, of the nature charged on no condition or under no circumstance fell within the scope of the authority or employment of the manager, agent, employee or member concerned, and the fact that that holder issued instructions whereby an act or omission of that nature is prohibited shall not in itself be sufficient proof that he or she took all reasonable steps to prevent the act or omission.

166. Managers, agents, employees and family members.

(1) When the holder of a licence is by virtue of section 165 liable for an act or omission by the manager of the business to which the authority or licence concerned relates, the agent or employee of that holder or a member of the family of that holder or manager, that manager, agent, employee or member shall also be liable therefor as if he or she were the holder of the licence concerned.

(2) Subsection (1) shall not release the manager, agent, employee or member contemplated in that subsection from any other liability which he or she may have incurred apart from the liability which he or she shares with the holder of the licence concerned.

Evidential and procedural matters

167. Proof of sale of liquor by non-holders.

Evidence in any criminal proceedings that any person who is not the holder of a licence

(a) had on or near his or her premises any signboard or notice purporting that he or she holds a licence;

(b) was in occupation or control of premises fitted out with a bar or similar place containing bottles, casks or other receptacles so displayed as to induce a reasonable suspicion that liquor was sold thereon;

(c) had on his or her premises more liquor than was reasonably required for his or her personal use and for the use of any person residing thereon; or

(d) bought or procured or had in his or her possession or custody or under his or her control more liquor than was reasonably necessary for consumption by himself or herself, his or her family or his or her bona fide employees or guests, shall be *prima facie* proof of the sale of liquor by the first-mentioned person.

168. Proof that person belongs to particular category.

(1) If it is alleged in any prosecution for an offence in terms of this Act that any person is under a particular age or belongs to any other particular category, evidence that the person concerned is apparently under that age or that he or she is regarded as belonging to that other category or by his or her appearance belongs thereto, as the case may be, shall be *prima facie* proof of that fact.

(2) If in addition the court is satisfied from personal observation that that person is apparently under the age or by his or her appearance belongs to that other category, it shall announce and record that fact, but that announcement and recording shall not prevent the accused from proving that that person, although having the appearance of, is not in fact, a person under that age or belonging to that other category, as the case may be.

169. Proof of licences and certain conditions.

A document which purports to be a copy of a licence shall on its mere production in any judicial proceedings be *prima facie* proof of the licence, and any condition recorded thereon shall, unless the contrary is proved, be deemed to be a condition imposed under this Act in respect of the licence.

170. Proof of certain qualifications and of issue of licences.

In any prosecution for an offence in terms of this Act, a statement made by a witness that he or she is the holder of a licence or an exempted person or the agent or employee of such a holder or person, or that a licence has been issued in respect of any relevant business, shall be *prima facie* proof of that fact.

171. Proof of certain facts by affidavit.

(1) If the question arises in any civil proceedings whether a particular act, transaction or occurrence did or did not take place in a particular department of the State or in a branch or office of such a department, or the question arises in such proceedings whether a particular functionary in such a department, branch or office did or did not perform a particular act or did or did not take part in a particular transaction, a document purporting to be an affidavit by a person who in that affidavit alleges -

(a) that he or she is in the employ of the State in the department, branch or office concerned;

(b) that -

(i) if the act, transaction or occurrence concerned took place in that department, branch or office;

or

(ii) if the functionary concerned performed such an act or took part in such a transaction, it would in the ordinary course of events have come to his or her, the deponent's, knowledge and a record thereof which is available to him or her would have been kept; and

(c) that it has not come to his or her knowledge -

(i) that such an act, transaction or occurrence took place; or

(ii) that that functionary performed such an act or took part in such a transaction, and that there is no record thereof, shall on mere production be admissible as proof in those proceedings that the act, transaction or occurrence concerned did not take place or that the functionary concerned did not perform the act concerned or did not take part in the transaction concerned.

(2) If the question arises in any civil proceedings whether a person with a particular name did or did not furnish a particular officer with particular information or a particular document, a document purporting to be an affidavit by a person who in that affidavit alleges that he or she is that officer and that no person which such a name furnished him or her with such information or document, shall on mere production be admissible as proof in those proceedings that that person did not furnish that officer with such information or document.

(3) If the question arises in any civil proceedings whether a fact or information has been recorded under this Act or whether a document is kept or retained thereunder, a document purporting to be an affidavit by a person who in that affidavit alleges that he or she is the person on whom this Act confers the power or imposes the duty to record that fact or information or to keep or retain that document and that he or she has recorded the fact or information concerned or keeps or retains the document concerned or that he or she has satisfied himself or herself that the fact or information concerned has been recorded or that the document concerned is kept or retained, shall on mere production be admissible as proof in those proceedings that that fact or information has been so recorded or that that document is so kept or retained.

172. Procedural requirements for proof by affidavit.

(1) An affidavit contemplated in subsection (1), (2) or (3) of section 171 shall not be admissible as proof in terms of the applicable subsection unless a copy thereof has been delivered by the party intending to make use thereof to every other party to the proceedings concerned at least seven days before the date of the production thereof.

(2) The court to which such an affidavit is produced may on application by any party to the proceedings concerned order that the person who made the affidavit concerned be called upon to give evidence in those proceedings or that written interrogatories be submitted to him or her for reply, and such interrogatories and any reply thereto purporting to be a reply by that person shall likewise be admissible as proof in those proceedings.

173. Presumption of sale from nature of transactions.

If it is alleged in any prosecution for an offence in terms of this Act that an unlawful sale of liquor took place, a sale of liquor shall be presumed to have taken place if the court is satisfied, notwithstanding the absence of proof that money passed, that a transaction in the nature of a sale actually took place.

174. Presumption regarding prohibited concoctions and drinks.

If it is proved in any prosecution for an offence in terms of section 154 (1) (j) that the accused manufactured, had in his or her possession or custody or under this control, or consumed or sold, supplied or gave to any person a liquid which had or has the appearance of a concoction or drink referred to in section 135 (1) and in the charge, it shall be presumed, unless the contrary is proved, that the liquid was or is that concoction or drink.

175. Bona fide mistake of fact no defence.

It shall be no defence to a charge for an offence in terms of this Act that the accused or his or her principal, agent or employee bona fide believed in the existence of any fact which, had it actually existed, would have been a valid defence to the charge.

176. Procuring of certain evidence.

When any person in any judicial proceedings requires any evidence to be given in connection with any information recorded, or the production of any record, plan or other document kept or retained, by virtue of section 179, he or she shall summons the recorder to give such evidence or to produce such a record, plan or other document.

CHAPTER 17

MISCELLANEOUS MATTERS

177. [Remuneration of members of Board and co-opted persons](#)
178. [Allowances for witnesses](#)
179. [Designations and functions of recorder](#)
180. [Copies of records and other documents](#)
181. [Secrecy](#)
182. [Regulations](#)
183. [Delegations of powers](#)
184. [Condonation of defective applications](#)
185. [Cognisance of certain documents and matters](#)
186. [Nominees](#)

177. Remuneration of members of Board and co-opted persons.

(1) A member of the Board appointed under section 7 (1) (c) and a person co-opted under section 9 (1) shall be entitled to such remuneration and allowances (including allowances for reimbursement of travelling and subsistence expenses incurred by them) in connection with the performance of their functions in terms of this Act as the Minister may in consultation with the Minister of Finance determine.

(2) In the application of subsection (1), the Minister may determine that any remuneration or allowances contemplated in that subsection shall be the remuneration or allowances determined from time to time by or under any law in respect of any person or category of persons.

178. Allowances for witnesses.

A person attending a meeting of the Board by virtue of a summons in terms of section 12 (4) shall be entitled to the prescribed allowances.

179. Designation and functions of recorder.

(1) The chairperson may designate any person appointed in accordance with section 17 (1) as the recorder of the province concerned for the purposes of this Act. **[Sub-s. (1) substituted by s. 48 (a) of Act No. 57 of 1995.]**

(2) The recorder shall -

(a) keep records of all licensed premises in the province concerned, containing such information as the chairperson may determine (including all information furnished by virtue of section 48); **[Para. (a) substituted by s. 48 (b) of Act No. 57 of 1995.]**

(b) retain all documents furnished by virtue of section 48; and

(c) perform such other functions as may be assigned to him or her in terms of this Act.

180. Copies of records and other documents.

The recorder shall, on application and against payment of the prescribed fees, furnish to any person copies of any licence and the conditions thereto or of any application which is being kept or retained by him or her and which relates to any licensed premises.

181. Secrecy.

Subject to the provisions of section 180, the records and other documents kept or retained by virtue of section 179 shall not be disclosed, except to -

(a) the Member of the Executive Council; **[Para. (a) substituted by s. 49 (a) of Act No. 57 of 1995.]**

(b) any person who requires it for the performance of his or her functions in terms of this Act;

(c) any other person -

(i) on the instructions of the Member of the Executive Council; or **[Sub-para. (i) substituted by s. 49 (b) of Act No. 57 of 1995.]**

(ii) in terms of an order of a competent court.

182. Regulations.

(1) The Minister may make regulations regarding -

(a) the applications made in terms of this Act to which or in connection with which objections or representations may be made by any person;

(b) the form in which and the manner in which any application, objection, representations or complaint in terms of this Act is or are to be made;

(c) the documents which are to be lodged in support of any application in terms of this Act, and the form in which and the manner in which those documents are to be lodged;

(d) the lodging of replies to any objection or representations in terms of this Act;

(e) the maximum number of licences of or in which any person may be the holder or may have any interest;

(f) the furnishing of any information for the purpose of any record or other document required to be kept by virtue of this Act;

(g) the retention and destruction of any record or other document required to be kept or retained by virtue of this Act;

(h) the payment of fees in respect of any application made in terms of this Act;

(i) the payment of fees in respect of the issue of any licence, including, in the case of any licence other than a temporary liquor licence or occasional licence, the period within which such fees are to be paid;

(j) the payment of fees in respect of the transfer of any licence, including the period within which such fees are to be paid;

(k) the payment of fees in respect of the removal of any licence, including the period within which such fees are to be paid;

(l) the payment of annual licence fees in respect of any licence;

(m) the duties of officers by virtue of this Act;

(n) the form of licences, declarations, notices, summonses, consents, appointments, directions, determinations, approvals, authorities and other documents in terms of this Act;

(o) reviews and appeals in terms of this Act;

(p) any matter which in terms of this Act is required or permitted to be prescribed; and

(q) in general, any matter in respect of which he or she thinks it necessary or expedient to make regulations for achieving the objects of this Act, the generality of this paragraph not being limited by the preceding paragraphs.

(2) A regulation made under this section may for a contravention thereof or failure to comply therewith, prescribe a penalty which shall not exceed a fine of R1 000 or imprisonment for a period of six months.

(3) Different regulations may be made under this section in respect of different kinds of licences, licences of the same kind having different common characteristics, different categories of persons or different areas.

(4) A regulation under this section regarding any fees or allowances shall be made in consultation with the Minister of Finance.

183. Delegation of powers.

(1) . **[Sub-s. (1) substituted by s. 62 (a) of Act No. 105 of 1993 and deleted by s. 50 (a) of Act No. 57 of 1995.]**

(2) The Member of the Executive Council responsible for Safety and Security may, subject to such conditions as he or she may impose, delegate to any police officer who is a commissioned officer the power conferred on him or her by section 139. **[Sub-s. (2) substituted by s. 50 (b) of Act No. 57 of 1995.]**

(3) The chairperson may, subject to such conditions as he or she may impose, delegate to any person in the employ of the State any power conferred on him or her by this Act, excluding a power contemplated in sections 9 (1), 11, 12, 13, 14 (2), 32A, 78 (1) (b), 80 (3) (b), 82 (1) (b), 86 (1) (b), 94 (1) (b) and 104 (1) (b). **[Sub-s. (3) substituted by s. 62 (b) of Act No. 105 of 1993 and by s. 50 (c) of Act No. 57 of 1995.]**

(4) The Member of the Executive Council responsible for Safety and Security or the chairperson shall not by the delegation of any power under this section be divested of a power so delegated and may set aside or amend any decision of the delegate made in the exercise of such a power. **[Sub-s. (4) substituted by s. 50 (d) of Act No. 57 of 1995.]**

184. Condonation of defective applications.

If -

(a) an application in terms of this Act or a document accompanying it is defective in any respect; or

(b) an applicant fails to lodge any document in support of such an application, the competent authority may, when dealing with or considering the application, condone the defect or failure if it is of the opinion

that there has been substantial compliance with this Act and that the condonation is not likely to prejudice any person.

185. Cognisance of certain documents and matters.

The competent authority shall, in the consideration of any application made in terms of this Act, take cognisance of -

- (a) the application and the report contemplated in section 140 (if any);
- (b) the documents lodged in support of the application, objections to and representations in connection with the application, replies to such objections and representations and other information procured in connection with the application (if any); and
- (c) any matter which in the opinion of the competent authority ought to be taken into consideration.

186. Nominees.

A licence shall not be granted, issued or transferred to the nominee of a person, but shall be granted, issued or transferred to the person concerned himself or herself.

CHAPTER 18

TRANSITIONAL PROVISIONS

187. [Conversion of certain authorities and licenses](#)
188. [Lapse of certain authorities](#)
189. [Existing sports ground liquor licences](#)
190. [Restriction of effect of certain laws, title deeds, servitudes and contracts](#)
191. [Continuation of certain pending matters](#)
192. [Repeal of laws](#)
193. [Short title and commencement](#)

187. Conversion of certain authorities and licences.

(1) Notwithstanding any law or contract to the contrary, every authority and licence of the kind referred to in the first column of Schedule 1 and in force immediately before the date of commencement of this section shall as from that date be deemed to be a licence of the kind referred to in the second column of the said Schedule.

(2) In the application of subsection (1)

(a) the annual licence fees which have in terms of the Liquor Act, 1977 (Act No. 87 of 1977), been paid in respect of a licence referred to in the first column of Schedule 1 of this Act for the year in which this section commences, shall be deemed to be the annual licence fees prescribed under section 182 (1) (l) of this Act which have been paid for that year in respect of the licence referred to in the second column of the said Schedule;

(b) . **[Para. (b) deleted by s. 51 of Act No. 57 of 1995.]**

(c) a provision of section 126 of the Liquor Act, 1977, shall be deemed to be a condition imposed under this Act in respect of an applicable wholesale liquor licence. **[Para. (c) substituted by s. 63 of Act No. 105 of 1993.]**

(3) A conditional authority issued under section 37 of the Liquor Act, 1977, in respect of an application for a licence referred to in the first column of Schedule 1 of this Act and in force immediately before the date of commencement of this section, shall as from that date be deemed to be a notice issued under section 33 of this Act in respect of an application for a licence referred to in the second column of the said Schedule.

188. Lapse of certain authorities.

(1) Subject to section 187 (1), any person who immediately before the commencement of this section is authorized by or under the Sorghum Beer Act, 1962 (Act No. 63 of 1962), to manufacture, sell or supply sorghum beer shall, notwithstanding the repeal of that Act by this Act, for a period of 12 months as from the date of such commencement continue to be entitled to manufacture, sell or supply sorghum beer under such an authority as if that Act were not so repealed.

(2) An authority contemplated in subsection (1) shall lapse on the expiration of the period so contemplated unless the person concerned applies for a licence referred to in section 20 (a) (vi) or (b) (vi) or (vii) at least three months before such expiry, in which case the authority concerned shall lapse on the date immediately preceding the date of the issue of the licence concerned or on the date of the refusal of the application concerned, as the case may be. **[Sub-s. (2) substituted by s. 64 of Act No. 105 of 1993.]**

189. Existing sportsground liquor licences.

(1) A sportsground liquor licence in force immediately before the commencement of this section by virtue of the Liquor Act, 1977 (Act No. 87 of 1977), and any right, privilege, obligation or liability attached thereto and so in force, shall, subject to the provisions of this Act, remain in force.

(2) In the application of this Act, a sportsground liquor licence shall be deemed to have been issued under this Act, and any provision of a law repealed by this Act and which related to the facilities which the licensed premises shall afford, shall be deemed to be a condition imposed under this Act in respect of such a licence.

190. Restriction of effect of certain laws, title deeds, servitudes and contracts.

The provisions of the Mining Rights Act, 1967 (Act No. 20 of 1967), or of any other law or any title deed, servitude or contract prohibiting, restricting or regulating the carrying on of any business on proclaimed land, land held under mining title or land on which mining operations are being lawfully carried on, shall not apply to the sale or supply of liquor or any article under a special licence or by virtue of section 41 of this Act by an employer regularly employing or housing employees.

191. Continuation of certain pending matters.

(1) Notwithstanding the repeal of any law by this Act, any application made by virtue of such a law before the date of commencement of the repeal and not disposed of on that date, shall be continued and disposed of as if that law were not so repealed.

(2) In the application of subsection (1) of this section and of section 12 of the Interpretation Act, 1957 (Act No. 33 of 1957), a reference to the Board in a law so repealed shall be construed as a reference to the Board as constituted in terms of this Act.

192. Repeal of laws.

(1) The laws referred to in Schedule 2 are hereby repealed to the extent set out in the third column of that Schedule. (Date of commencement: 2 April 1990, except those Acts mentioned in Proclamation R.61 of 1996: 3 October, 1996)

(2) Subject to the other provisions of this Act, anything done or deemed to have been done under a provision of a law repealed by subsection (1), and which is capable of being done under a provision of this Act, shall be deemed to have been done under the last-mentioned provision.

(3) In the application of subsection (2)

(a) a provision of a law repealed by subsection (1) and which related to the facilities which the licensed premises in respect of which a restaurant liquor licence, wine-house licence and theatre liquor licence issued before the commencement of this section was held, had to afford, shall be deemed to be a condition imposed under this Act in respect of such a licence;

(b) a declaration in the *Gazette* contemplated in section 23 (2) of the Liquor Act, 1977 (Act No. 87 of 1977), shall be deemed to be a declaration contemplated in section 32 (3) of this Act in respect of every special licence concerned.

193. Short title and commencement.

(1) This Act shall be called the Liquor Act, 1989, and shall commence on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act or in respect of section 192 in so far as it relates to different laws referred to in Schedule 2 or to different provisions of any law so referred to.

Schedule 1
Licences converted
[Schedule 1 amended by s. 66 of Act No. 105 of 1993.]
(Section 187)

Kind of authority or licence in force immediately before the date of commencement of section 187 of this Act	Kind of licence deemed to be in force as from that date
An authority under the Sorghum Beer Act, 1962 (Act No. 63 of 1962), for the sale of sorghum beer for consumption on particular premises acquired by virtue of section 5 of the Sorghum Beer Amendment Act, 1987 (Act No. 29 of 1987).	A sorghum beer licence referred to in section 20 (a) (vi) of this Act.
An authority under the Sorghum Beer Act, 1962 (Act No. 63 of 1962), for the manufacture of sorghum beer acquired by virtue of section 5 of the Sorghum Beer Amendment Act, 1987 (Act No. 29 of 1987).	A sorghum beer brewer's licence.
An authority under the Sorghum Beer Act, 1962 (Act No. 63 of 1962), for the sale of sorghum beer for consumption off particular premises acquired by virtue of section 5 of the Sorghum Beer Amendment Act, 1987 (Act No. 29 of 1987).	A sorghum beer licence referred to in section 20 (b) (vii) of this Act.
An authority referred to in section 23 of the Liquor Act, 1977 (Act No. 87 of 1977), for the sale of liquor for consumption on the licensed premises.	A special licence referred to in section 20 (a) (vii) of this Act.
An authority referred to in section 23 of the Liquor Act, 1977 (Act No. 87 of 1977), for the sale of liquor off the licensed premises.	A special licence referred to in section 20 (b) (viii) of this Act.
An authority referred to in section 24 of the Liquor Act, 1977 (Act No. 87 of 1977).	A producer's licence.
An authority granted under section 87 (1) (a) of the Liquor Act, 1977 (Act No. 87 of 1977), to the holder of a hotel liquor licence.	A liquor store licence.
A meal time wine and malt licence referred to in section 22 (a) (iv) of the Liquor Act, 1977 (Act No. 87 of 1977).	A restaurant liquor licence.
A wine and malt licence referred to in section 22 (a) (ix) of the Liquor Act, 1977 (Act No. 87 of 1977).	A restaurant liquor licence.
A foreign liquor licence referred to in section 22 (b) (ii) of the Liquor Act, 1977 (Act No. 87 of 1977).	A wholesale liquor licence.
An authority granted under section 64 (2) of the Liquor Act, 1928 (Act No. 30 of 1928), to the holder of a wine and malt licence.	A liquor store licence.
An authority granted under section 64 (2) of the Liquor Act, 1928 (Act No. 30 of 1928), to the holder of a bar licence.	A liquor store licence.
A bar licence referred to in section 8 (1) (b) (iii) of the Liquor Act, 1928 (Act No. 30 of 1928).	A special licence referred to in section 20 (a) (vii) of this Act.

Schedule 2
Laws repealed
(Section 192)

Number and year of law	Title of law	Extent of Repeal
Act No. 63 of 1962	Sorghum Beer Act, 1962	The whole.
Act No. 42 of 1964	Black Laws Amendment Act, 1964	Sections 92 to 94 and 95.
Act No. 98 of 1965	General Law Amendment Act, 1965	Section 19.
Act No. 56 of 1968	Blacks Laws Amendment Act, 1968	Sections 8 and 9.
Act No. 30 of 1972	Second Blacks Laws Amendment Act, 1972	So much as is unrepealed.
Act No. 62 of 1973	General Law Amendment Act, 1973	Section 23.
Act No. 70 of 1974	Black Laws Amendment Act, 1974	Section 11.
Act No. 4 of 1976	Black Laws Amendment Act, 1976	Sections 9 and 10.
Act No. 87 of 1977	Liquor Act, 1977	The whole.
Act No. 115 of 1977	Second Black Laws Amendment Act, 1977	Section 2.
Act No. 82 of 1978	Liquor Amendment Act, 1978	The whole.
Act No. 55 of 1979	Liquor Amendment Act, 1979	The whole.
Act No. 48 of 1980	Liquor Amendment Act, 1980	The whole.
Act No. 117 of 1981	Liquor Amendment Act, 1981	The whole.
Act No. 61 of 1983	Liquor Amendment Act, 1983	The whole.
Act No. 102 of 1983	Laws on Co-operation and Development Amendment Act, 1983	Sections 7 and 8.
Act No. 57 of 1984	Liquor Amendment Act, 1984	The whole.
Act No. 31 of 1985	Liquor Amendment Act, 1985	The whole.
Act No. 12 of 1986	Liquor Amendment Act, 1986	The whole.
Act No. 29 of 1987	Sorghum Beer Amendment Act, 1987	The whole.
Act No. 50 of 1987	Liquor Amendment Act, 1987	The whole.