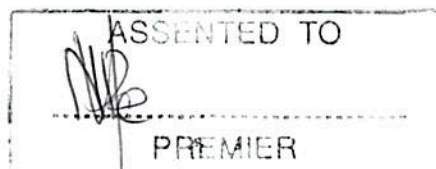

GAUTENG PROVINCIAL LEGISLATURE

GAUTENG LIQUOR ACT, 2014



CERTIFIED CORRECT AS PASSED BY
THE GAUTENG PROVINCIAL LEGISLATURE

SIGNED.....
SPEAKER

DATE 27 MARCH 2014

ENGLISH TEXT SIGNED BY THE PREMIER
ASSENTED TO ON 07-04-14

No 3, 2014

ACT

To provide for the control and licensing of the retail sale and supply of liquor and micro-manufacturing of liquor within the Gauteng Province; to establish the Gauteng Liquor Board and its committees; to establish the Gauteng Liquor Appeal Board; to regulate applications for licences; to regulate the granting of different kinds of licences; to prohibit the sale of liquor to certain categories of people; to provide for the promotion of responsible consumption of liquor in the Gauteng Province; the appointment of liquor inspectors and enforcement procedures; to repeal the Gauteng Liquor Act (Act No.2 of 2003); and to provide for matters connected therewith.

WHEREAS Part A of Schedule 5 of the Constitution of the Republic of South Africa, 1996 lists liquor licences as a functional area of exclusive provincial competence;

AND WHEREAS the Gauteng Provincial Government in compliance with its Constitutional mandate requires this Act to—

- (a) provide for licensing procedures, and governing and monitoring structures;
- (b) foster responsible attitudes towards the production, promotion, sale and consumption of liquor in the Province;
- (c) ensure that appropriate measures are in place to reduce the harm caused by the consumption of alcohol including reducing per capita consumption of alcohol;
- (d) facilitate the entry and empowerment of new entrants into the liquor industry;
- (e) promote sustainable economic growth; and
- (f) transform the liquor industry to meet the socio—economic realities and demographics of the Province.

B E IT THEREFORE ENACTED by the Provincial Legislature of the Gauteng Province as follows:—

CONTENTS

CHAPTER 1

DEFINITIONS AND INTERPRETATION

5

1. Definitions

CHAPTER 2

GAUTENG LIQUOR BOARD AND GAUTENG LIQUOR APPEAL BOARD

2. Establishment and constitution of Gauteng Liquor Board
 3. Establishment and constitution of Gauteng Liquor Appeal Board
 4. Powers and responsibilities of Board
 5. Powers and responsibilities of Appeal Board
 6. Disqualification for appointment to Board and Appeal Board
- 10

7.	Term of office of members of Board and Appeal Board	
8.	Termination of membership of Board and Appeal Board	
9.	Committees of Board	
10.	Delegation of responsibilities of Board	
11.	Meetings of Board	5
12.	Meetings of Appeal Board	
13.	Conduct of meetings	
14.	Subpoena and notices	
15.	Funds of Board and Appeal Board	
16.	Conflict of interest of members of Board and Appeal Board	10
17.	Appointment of Head of Liquor Licensing	

CHAPTER 3

LICENCES

18.	Categories of licences	
19.	Application requirements for liquor licence	15
20.	Lodgement of application	
21.	Notice of application	
22.	Consideration of application by Board	
23.	Application for special event liquor licence	
24.	Objections	20
25.	Hearing of application	
26.	Death or incapacity of licensee	
27.	Appeal	
28.	Hearing of appeal	
29.	Issuing of licence	25

CHAPTER 4

CONDITIONS APPLICABLE TO ON AND OFF-PREMISES CONSUMPTION LICENCES

30.	Place for consumption of liquor for on-premises consumption licences	
31.	Accommodation liquor licence	30
32.	Restaurant liquor licence	
33.	Theatre liquor licence	
34.	Tavern or Pub liquor licence	
35.	Gaming premises liquor licence	
36.	Sorghum beer liquor licence(on-premises consumption)	35
37.	Special event liquor licence	
38.	Sports facility liquor licence	
39.	Function venue liquor licence	
40.	Water borne vessel liquor licence	
41.	Place for off-premises consumption liquor licence	40
42.	Micro-manufacturer's liquor licence	
43.	Supply of liquor for on-premises consumption for micro- manufacturing	
44.	Liquor store licence	
45.	Grocer's wine liquor licence	
46.	Sorghum beer liquor licence (off-premises consumption)	45
47.	Liquor club licence	
48.	Renewal of licence	

CHAPTER 5

PROHIBITIONS

49.	Responsible sale and supply of liquor	50
50.	Prohibition of Impotable substance	
51.	Exemption by declaration of Board	
52.	Exemption from Act	
53.	Variation, suspension or cancellation of licence	

54.	Appeal against amendment, suspension or cancellation of licence	
55.	Voluntary cancellation, winding up or dissolution	
56.	Change of beneficial interest and control	
57.	Change or extension of core business	
58.	Transfer of licence	5
59.	Register of licensees and provincial records	
60.	Appointment of manager	
61.	Nature of premises	
62.	Alteration of premises	

CHAPTER 6 10

PART 1: LAW ENFORCEMENT

63.	Designation of inspectors	
64.	Powers and duties of inspectors	
65.	Non-compliance notice	
66.	Closing down of licenced premises	15
67.	Inspectorate reports	

PART 2: OFFENCES

68.	Offences in general	
69.	Offences regarding information	
70.	Offences regarding inspectors and police officers	20
71.	Offences by licensees in general	
72.	Penalties	

CHAPTER 7

GENERAL TERMS

73.	Regulations	25
74.	Delegation by MEC	
75.	Transitional provisions	
76.	Repeal of laws and savings	
77.	Short title and commencement	

CHAPTER 1 30

DEFINITIONS AND INTERPRETATION

Definitions

1. In this Act, unless the context indicates otherwise—
 - “**Appeal Board**” means the Gauteng Liquor Appeal Board established by section 3; 35
 - “**application**” means an application as prescribed;
 - “**B-BBEE Act**” means Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
 - “**beer**” includes—
 - (a) ale, cider, stout; and 40
 - (b) any other fermented drink, other than traditional African beer that contains more than one percent volume of alcohol and is manufactured as, or sold under, the name of beer, ale, cider or stout; or that is declared to be beer under section 42(2)(a) of the National Liquor Act;
 - “**beneficial interest**” when used in relation to any licensee, applicant, business or undertaking, means any interest enabling the holder thereof to exercise, directly or indirectly, any control over the activities or assets of the licensee, applicant, business or undertaking; 45
 - “**Board**” means the Gauteng Liquor Board established and constituted in terms of section 2; 50

“committees” means committees of the Board that may be established and appointed to assist it in the execution of its duties in terms of section 9;
“Companies Act” means the Companies Act, 2008 (Act No. 71 of 2008);
“Constitution” means the Constitution of the Republic of South Africa, 1996;
“control” means control as defined in the Companies Act, 2008 (Act No. 71 of 2008);
“date of issue” means the date on which the licence is signed by the Chairperson or a designated person in terms of section 29;
“Department” means the Department responsible for liquor regulation in the Province;
“educational institution” means an institution of learning that provides education-related services to learners, but for the purposes of this Act excludes institutions of higher learning that do not primarily serve learners;
“family member” means a person’s spouse, child, parent, brother, or sister, whether the relationship results from birth, marriage or adoption;
“Gauteng Liquor Act” means Gauteng Liquor Act, 2003 (Act No. 2 of 2003);
“Head of Liquor Licensing” means a person appointed by the Department as the administrative head responsible for liquor licensing;
“HoD” means the Head of Department;
“Impotable substance” means any substance that is unsafe for human consumption;
“inspector” means a person appointed in terms of section 63;
“interim Appeal Board” means an Appeal Board appointed by the MEC in terms of section 8(5) for a limited period of time;
“interim Board” means a Board appointed by the MEC in terms of section 8(5) for a limited period of time;
“intoxicated” means the condition a person is in when his or her capabilities are so impaired by the consumption of liquor that he or she is likely to cause injury to himself or herself or be a danger, nuisance or disturbance to others, and intoxicated condition has a corresponding meaning;
“issue” means granting of a liquor licence by the Board to a person qualified to receive such a licence in terms of section 29;
“Legislature” means the Gauteng Provincial Legislature;
“licence” means a document issued by the Board authorising a person to conduct a licenced business in terms of section 29;
“licensee” means a person to whom a licence has been issued or transferred to in terms of this Act;
“licenced premises” means the place or premises specified in a licence on which activities authorised thereby may be conducted in terms of this Act;
“liquor” means—
 (a) a liquor product, as defined in section 1 of the Liquor Products Act, 1989 (Act No. 60 of 1989);
 (b) beer or traditional African beer; or
 (c) any other substance or drink declared to be liquor under section 42(2)(a) of the National Liquor Act;
“liquor outlet” means licenced premises where liquor is sold;
“manager” means a person appointed in terms of section 60;
“manufacture” means to produce or bottle liquor for the purpose, or with the intention, of selling it;
“MEC” means the member of the Executive Council responsible for liquor regulation in the Province;
“micro-manufacture” means to produce and or manufacture liquor below the prescribed threshold volume in terms of section 4 of the National Liquor Act and includes but is not limited to sorghum beer;
“minor” means a person who has not attained the age of 18 years;
“National Liquor Act” means the Liquor Act, 2003 (Act No. 59 of 2003);
“off-premises consumption licence” means a licence entitling the licensee to sell liquor not for consumption on the licenced premises, and **“off-premises consumption”** has a corresponding meaning;
“on-premises consumption licence” means a licence entitling the licensee to sell liquor for consumption on the licenced premises, and **“on-premises consumption”** has a corresponding meaning;
“premises” includes any place, land, building or conveyance, or part of it;

“prescribed” means prescribed by “regulation”;

“Province” means the Province of Gauteng;

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

“Regulation” means a regulation made in terms of this Act;

“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 section 2 (2)(c) of the National Liquor Act; 1989 (Act No. 27 of 1989);

“this Act” includes the Regulations promulgated in terms of this Act;

“traditional African beer” means a fermented liquid as defined in item 8 of Schedule 1 of the National Liquor Act.

CHAPTER 2

GAUTENG LIQUOR BOARD AND GAUTENG LIQUOR APPEAL BOARD

Establishment and constitution of Gauteng Liquor Board

2. (1) The Gauteng Liquor Board is hereby established as a juristic person.

(2) The MEC must constitute the Board, comprising of not less than eight and not more than 15 members, appointed as follows—

(a) one or more persons admitted as an attorney or an advocate with at least five years experience in the legal profession;

(b) not more than five representatives with at least five years experience in town planning, education, health, local government or public service;

(c) one or more persons appointed by reason of his or her knowledge and experience in either the field relating to competition law or economic development;

(d) not less than two and not more than six persons, who must either have business acumen or knowledge and experience of the liquor industry or the gambling industry; and

(e) one or more persons appointed by reason of his or her knowledge and experience in internal audit or corporate governance.

(3) Before appointing the members of the Board, the MEC must invite, through the media and by notice in the Provincial Gazette, nominations of candidates for appointment.

(4) A member of the board shall be appointed by the responsible MEC after consultation with the Portfolio Committee of the Provincial legislature responsible for the economic affairs whose deliberations shall be open to the public.

(5) After the MEC has shortlisted, interviewed and considered the nominated candidates, the final list of the appointed Board members will be published in two newspapers with wide circulation in the Province and in the Provincial Gazette.

(6) The MEC may determine any other criteria or procedure for appointing members.

(7) The MEC must ensure that the Board represents a broad section of the population of the Province, with special attention to race, gender, socio-economic background and disability.

(8) The Head of Liquor Licensing is an ex officio member of the Board and has no voting rights.

(9) Each member of the Board, other than the Head of Liquor Licensing, must be appointed to serve on a part-time basis.

(10) The MEC must designate—

(a) a member of the Board as Chairperson; and

(b) another member as Deputy-Chairperson, to act as a Chairperson when the Chairperson is unable to perform those duties.

Establishment and constitution of Gauteng Liquor Appeal Board

3. (1) There is hereby established a Gauteng Liquor Appeal Board.

- (2) The MEC must constitute an Appeal Board comprising of not less than seven and not more than 10 members, appointed as follows—
- (a) two or more persons admitted as an attorney or an advocate with at least seven years' experience in the legal profession;
 - (b) not more than two representatives with at least seven years' experience in town planning, education, health, social development, local government or public service; 5
 - (c) two or more persons who must have either business acumen or knowledge and experience of the liquor industry or the gambling industry; and
 - (d) an expert may be invited by the Appeal Board to give advice on a specific matter. 10
- (3) Before appointing the members of the Appeal Board, the MEC must invite, through the media and by notice in the Provincial Gazette, nominations of candidates for appointment.
- (4) After the MEC has shortlisted, interviewed and considered the nominated candidates, the final list of the appointed Appeal Board members must be published in two newspapers with wide circulation in the Province and the Provincial Gazette. 15
- (5) The MEC may determine any other criteria or procedure for appointing members.
- (6) The MEC must designate—
- (a) a member of the Appeal Board as Chairperson; and 20
 - (b) another member as Deputy-Chairperson, to act as Chairperson when the Chairperson is unable to perform those duties.

Powers and responsibilities of Board

4. (1) The Board—
- (a) must consider applications for liquor licences; 25
 - (b) must consider reports submitted to it by inspectors; and
 - (c) after consideration of any other matter contemplated in this Act, may—
 - (i) approve an application;
 - (ii) approve an application subject to conditions;
 - (iii) refuse an application; 30
 - (iv) suspend a licence for an indefinite period or for such period as it may determine;
 - (v) suspend or withdraw a privilege attached to a licence;
 - (vi) rescind the suspension of the licence concerned or a right or privilege that is attached to the licence concerned, with immediate effect or from such date as it may determine, subject to such conditions as it may impose; 35
 - (vii) establish and delegate certain powers to committees;
 - (viii) consider the renewal of a licence;
 - (ix) conduct hearings or enquiries regarding liquor applications and licences; 40
 - and
 - (x) take such steps as may be necessary.
- (2) The Board may invest funds as prescribed in section 15.
- (3) The Board must exercise its functions in an open and transparent manner and its decisions must not be biased. 45
- (4) The Board may furnish a report or recommendation to the MEC on any matter arising from the application of this Act.

Powers and responsibilities of Appeal Board

5. (1) The Appeal Board must consider appeals against the decisions made by the Board. 50
- (2) After considering an appeal, the Appeal Board may—
- (a) uphold the decision of the Board in full or in part;
 - (b) set aside the decision of the Board and substitute it with the decision that it considers appropriate;
 - (c) dismiss the appeal; or 55
 - (d) make any decision that is appropriate under the circumstances.
- (3) The Appeal Board may invest funds as set out in section 15.

Disqualifications for appointment to Board and Appeal Board

6. (1) A person may not be appointed as a member of the Board or Appeal Board if that person—
- (a) is not a resident in the Province;
 - (b) is a member of Parliament, a Provincial Legislature, a Municipal Council or a House of Traditional leaders established in terms of the Constitution; 5
 - (c) is an unrehabilitated insolvent;
 - (d) is of unsound mind, and is subject to an order of a competent court declaring the person to be mentally ill or disordered;
 - (e) has at any time been convicted of an offence involving dishonesty; 10
 - (f) has at any time been removed from an office of trust on account of misconduct relating to dishonesty or fraud; or
 - (g) has been removed as a member of the Board or Appeal Board for breach of a provision of this Act.
- (2) A member of the Board or Appeal Board must vacate office if that member 15 becomes subject to any disqualification contemplated in subsection (1).

Term of office of members of Board and Appeal Board

7. (1) A member of the Board or Appeal Board—
- (a) is appointed for a period of three years, subject to subsection (2) and section 6(2); 20
 - (b) serves on the terms and conditions determined by the MEC and specified in the letter of appointment of the member; and
 - (c) may resign by giving one month written notice to the MEC, or such notice as is stipulated in the letter of appointment of the member.
- (2) A person whose term of office as a member of the Board or Appeal Board has expired is eligible for reappointment, but no person, other than a public servant, may serve for more than two consecutive terms. 25
- (3) The MEC must determine the remuneration and allowances of members of the Board or Appeal Board after consultation with the MEC for Finance in the Province.
- (4) The Head of Liquor Licensing and any other member of the Board or Appeal Board in the service of the State may not receive remuneration or allowances for serving on the Board or Appeal Board, but may be reimbursed for expenses incurred in the performance of their functions. 30

Termination of membership of Board and Appeal Board

8. (1) The MEC may terminate the appointment of a member— 35
- (a) for misconduct, incapacity or incompetence;
 - (b) if the member fails to attend half of the Board or Appeal Board meetings in a year without a valid reason;
 - (c) if the member, other than a public servant, submits his or her resignation to the MEC; or 40
 - (d) on good cause shown.
- (2) If the performance of the Board or Appeal Board is unsatisfactory or ineffective, the MEC may, after giving the Board or Appeal Board an opportunity to be heard, remove all of the members of the Board or Appeal Board.
- (3) If a member's appointment is terminated or a member resigns, the MEC may appoint a person to fill the vacancy for the unexpired portion of the period for which the member was appointed or for such a period as the MEC may determine. 45
- (4) The MEC must in filling the vacancy among others consider the shortlist of nominated candidates referred to in section 2(4) or 3(4).
- (5) The MEC may after following the process contemplated in subsection (2) appoint an interim Board or an interim Appeal Board to take over the functions of the Board or Appeal Board in terms of this Act but the provisions of subsection (3) are not applicable. 50
- (6) The MEC must set performance standards for the Board and Appeal Board as prescribed from time to time.

Committees of Board

9. (1) The Board may appoint one or more committees to deal with or enquire into any matter referred to the committee by the Board, and to report on that matter to the Board on such terms and conditions as the Board may determine.
- (2) A committee must comprise of at least three members of the Board. 5
- (3) The Board must designate one of the members appointed to the committee to be the chairperson of the committee.
- (4) Committees are governed by the same rules and procedures as those pertaining to the Board.
- (5) A committee must refer a matter to the Board for a decision. 10
- (6) The Board may dissolve or reconstitute a committee at any time.

Delegation of responsibilities of Board

10. (1) The Board may delegate any of its powers to any relevant committee of the Board.
- (2) A delegation under subsection (1) must be in writing and— 15
- (a) may be subject to the terms and conditions determined by the Board;
- (b) does not prevent the exercise of that responsibility by the Board; and
- (c) may be withdrawn or amended by the Board at any time.

Meetings of Board

11. (1) The Board must hold at least six meetings annually for the performance of its functions. 20
- (2) The Chairperson—
- (a) may convene a special meeting of the Board at any time; and
- (b) must convene a special meeting within seven days after receiving a request to do so, signed by the majority of the members of the Board. 25
- (3) A request contemplated in subsection (2) must clearly state the reason and the agenda for the meeting.
- (4) A quorum for a Board meeting is a simple majority of the Board members with voting rights present at the meeting.
- (5) The MEC may request a meeting with the Board at any time. 30
- (6) If both the chairperson and the deputy chairperson are absent from a meeting of the Board the members present must amongst themselves appoint a person to preside at the meeting.

Meetings of Appeal Board

12. (1) The Appeal Board must hold such meetings as are necessary for the performance of its functions. 35
- (2) The chairperson—
- (a) may convene a special meeting of the Appeal Board at any time; and
- (b) must convene a special meeting within seven days after receiving a request to do so, signed by the majority of the members of the Appeal Board. 40
- (3) A request contemplated in subsection (2) must clearly state the reason and the agenda for the meeting.
- (4) A quorum at the Appeal Board meeting is a simple majority of the members with voting rights.
- (5) The decision of the Appeal Board is valid despite— 45
- (a) any irregularity in the appointment of a member;
- (b) vacancy on the Appeal Board; and
- (c) whether a member who participated in the meeting had a conflict of interest.
- (6) The MEC may request a meeting with the Appeal Board at any time.
- (7) If both the chairperson and the deputy chairperson are absent from a meeting of the Appeal Board the members present must amongst themselves appoint a person to preside at such meeting. 50

Conduct of meetings

13. (1) The Board and the Appeal Board may determine rules of procedure for conducting their respective meetings.
- (2) The decision of majority of members present and voting constitutes a decision of the Board or of the Appeal Board and the respective chairpersons have casting votes. 5
- (3) The minutes of the proceedings of the Board and the Appeal Board must be taken and be retained at the offices of the Board and of the Appeal Board, respectively.
- (4) Any person may obtain copies of the minutes against payment of the prescribed fees.
- (5) Minutes of proceedings of every meeting of the Board and Appeal Board, 10 respectively, must be—
- (a) recorded by the secretariat and kept for a minimum period as contemplated in legislation regulating provincial records management and archiving; and
 - (b) submitted to the next meeting of the Board or the Appeal Board for consideration and, if adopted, must be signed by the respective chairperson. 15
- (6) The Board or Appeal Board may invite a person to attend a meeting for the purpose of providing expert advice to the Board or Appeal Board, respectively, on any matter.

Subpoena and notices

14. (1) The Board or Appeal Board may, in the prescribed manner, subpoena or notify 20 a person who is or may be able to give material information concerning the application to appear before the Board or Appeal Board, as the case may be.
- (2) A person who has received a subpoena or notice in terms of subsection (1) must personally appear before the Board or Appeal Board on the date, time and place set out in the subpoena or notice. 25
- (3) A person appearing before the Board or Appeal Board as contemplated in subsection (2), may be accompanied by a representative of his or her choice.
- (4) The Board or Appeal Board may subpoena any person to a meeting to—
- (a) give evidence; or
 - (b) produce any document or any other relevant information which is in that 30 person's possession, custody or control.

Funds of Board and Appeal Board

15. (1) The funds of the Board and the Appeal Board consist of money—
- (a) appropriated to it by the Department;
 - (b) received from the payments for licences or other charges by the Board or the 35 Appeal Board;
 - (c) accruing to the Board or the Appeal Board from a source approved by the MEC; received from a venture in which the Board or the Appeal Board is involved;
 - (d) in the form of a donations received from a donor with the approval of the 40 MEC; or
 - (e) lawfully obtained by the Board and the Appeal Board from any other source.
- (2) The Board and the Appeal Board may invest its funds not immediately required—
- (a) subject to an investment policy that may be prescribed in terms of section 7(4) 45 of the Public Finance Management Act; or
 - (b) in such a manner as may be approved by the MEC.

Conflict of interest of members of Board and Appeal Board

16. (1) A member—
- (a) must make a full disclosure to the Board or Appeal Board of any conflict of interest, including a potential conflict; 50
 - (b) may not vote, attend or participate in any proceedings in relation to a matter before the Board or Appeal Board in respect of which that member has a conflict of interest; and
 - (c) must comply with a decision as to whether such member is entitled to participate in any particular proceedings of the Board or Appeal Board. 55

- (2) For the purposes of this section, a member has a conflict of interest if—
- (a) he or she or his or her family member, partner, business associate is a director, member, partner of or has financial interest or other interest in the business of the applicant for a licence or any other right or privilege to be granted by the Board or Appeal Board; or 5
 - (b) the member has any other interest that may preclude, or may reasonably be perceived as precluding, the member from performing the functions of a member of the Board or Appeal Board in a fair, unbiased and proper manner.
- (3) Any disclosure in terms of subsection (1)(a) and any decision of the Board or Appeal Board in terms of subsection (1)(c) must be recorded in the minutes of the meeting of the Board or Appeal Board. 10
- (4) The chairperson of the Board or Appeal Board must require such a person to be recused from the deliberations of the meeting.
- (5) Failure by a member to disclose shall result in the termination of membership of the Board or Appeal Board. 15

Appointment of Head of Liquor Licensing

17. (1) The Head of Liquor Licensing is appointed in accordance with the Public Service Act, 1994 (Act No. 103 of 1994).
- (2) The Head of Liquor Licensing is responsible for providing administrative support to the Liquor Board on a day-to-day basis. 20
- (3) The Head of Liquor Licensing must be supported by administrative staff who will be appointed under the Public Service Act, 1994 from time to time.
- (4) The Head of Liquor Licensing must promote, educate and raise public awareness on the rights of the public in relation to lodging an objection.
- (5) The Head of Liquor Licensing may advise the Board or furnish a report or recommendation to the Board on any matter referred to him or her by the Board for consideration and arising from the application of this Act. 25

CHAPTER 3

LICENCES

Categories of licences 30

18. A person must apply for a licence to sell liquor in respect of one or more of the following categories:
- (a) Sale of liquor for consumption off the premises as—
 - (i) liquor store licence;
 - (ii) grocer's wine liquor licence; 35
 - (iii) micro-manufacturer liquor licence; or
 - (iv) sorghum beer liquor licence;
 - (b) sale of liquor for consumption on the premises as—
 - (i) accommodation liquor licence;
 - (ii) restaurant liquor licence; 40
 - (iii) function venue licence;
 - (iv) tavern or pub liquor licence;
 - (v) theatre liquor licence;
 - (vi) waterborne vessels or boat liquor licence;
 - (vii) liquor club licence; 45
 - (viii) gaming premises liquor licence;
 - (ix) sports facility liquor licence;
 - (x) sorghum beer licence or
 - (xi) special event liquor licence; or
 - (c) any other type of licence that the Board or Appeal Board on good cause shown may regard as appropriate. 50

Application requirements for liquor licence

19. An application for a liquor licence must be in the prescribed form and must be accompanied by—
- (a) a prescribed written motivation; 55

- (b) a plan showing the premises and surrounding properties with property details and roads where applicable;
- (c) a written description of the premises together with colour photographs of the external and internal features, as well as surrounding area, of the proposed premises; 5
- (d) a zoning certificate of the property on which the premises are located and a local authority approval where appropriate;
- (e) a municipal approval building plan of the premises;
- (f) a municipal approved building plan for all approved existing plans;
- (g) a police clearance certificate stating particulars of any convictions recorded against the applicant and any other person who may be involved in the business concerned; 10
- (h) a certified copy of the identity document or of a valid passport of the applicant and in case of a non-South African resident a valid work permit, or registration documents of the juristic person; 15
- (i) proof that notice of the application has been published in at least two newspapers circulating in the municipal area where the premises are located;
- (j) proof that the application has been published in the Provincial Government Gazette;
- (k) where applicable, proof that notice was served on educational institutions, places of worship and local police stations in the area of jurisdiction; 20
- (l) proof of lawful occupation;
- (m) a declaration indicating whether or not the applicant holds other liquor licences, directly or indirectly, and whether or not he or she has interests in any other licenced business in the Province, and the number and type of licences held; 25
- (n) the B-BBEE or BEE status of the applicant indicating the shareholding, member's interest or partnership structure of the applicant;
- (o) proof of payment of the prescribed application fee; and
- (p) an original tax clearance certificate issued by the South African Revenue Service. 30

Lodgement of application

20. (1) An application for a liquor licence must be lodged with the office of the Board in the prescribed manner: Provided that the Board in consultation with the MEC may prescribe dates when submissions must be lodged for consideration. 35

(2) Within 30 days from the date of receipt of an application, the Head of Liquor Licensing must—

- (a) examine the application for completeness and compliance to the application requirements;
- (b) submit a report on the compliance with the application requirements to the Board; and 40
- (c) on receiving an application that complies with the regulations, submit the application to the Board.

(3) If a submission is incomplete or does not comply with the application requirements, the Head of Liquor Licensing must return the submission in the prescribed manner within the stipulated timeframe to afford the applicant an opportunity to complete the application and submit the outstanding documents. 45

(4) A member of the public must be afforded the opportunity to lodge views, comments and objections in writing regarding the application.

Notice of application

50

21. (1) An applicant must in the prescribed manner give notice of an application by publication in the Provincial Gazette and in two newspapers circulating in the municipal area in which the proposed premises are located.

(2) The last notice of application as contemplated in subsection (1) must be published seven days before the application is lodged provided that all notices of application are published within the same calendar month. 55

(3) Notice of the application must include the—

- (a) full names of the applicant;
- (b) intended trading name of the business and the registration number;

- (c) identity number of the applicant;
 - (d) full address and location of the premises;
 - (e) the type of licence applied for;
 - (f) names of—
 - (i) educational institutions; 5
 - (ii) places of worship; and
 - (iii) names of premises licensed in terms of this Act and type of license within a radius of one kilometre from the premises stated in the application.
- (4) The notices contemplated in subsection (1) must invite interested persons to lodge objections in terms of section 24. 10

Consideration of application by Board

22. (1) The Board must when considering an application take into account the following—
- (a) reports and representations lodged in support or against the application;
 - (b) any document lodged in relation to the application in addition to the required documents; 15
 - (c) whether the premises are or will on completion be suitable for the purposes for which they will be used;
 - (d) whether the applicant is of good standing and is fit to be a licensee and not disqualified to apply for a licence, which includes but is not limited to— 20
 - (i) whether the applicant is an rehabilitated insolvent;
 - (ii) whether the applicant is a minor on the date of consideration of the application; and
 - (iii) whether the person has been convicted of any liquor related offences.
 - (e) issues of public interest which include but are not limited to— 25
 - (i) the proximity of the proposed premises to educational institutions, places of worship, public transport and other liquor outlets;
 - (ii) the ratio of the population against the number of liquor outlets in the area of the proposed licence;
 - (iii) views, comments and objections submitted; 30
 - (iv) the applicant's commitment to Black Economic Empowerment;
 - (v) the extent to which the proposed licence may cause harmful monopolistic behavior and materially restrict or promote the access of new entrants to the liquor industry; and
 - (vi) the diversity of ownership and the nature of anti-competitive behavior within the liquor industry; and 35
 - (f) any other relevant factors including but not limited to expert opinion that the Board deems appropriate for consideration.
- (2) After consideration of the application and all relevant factors the Board must— 40
- (a) approve;
 - (b) approve subject to conditions; or
 - (c) refuse,

the application, and the Board must as soon as reasonably possible notify the applicant, every objector and persons who made representations in writing of the Board's decision and reasons therefore. 45

(3) The Board may grant or refuse a licence where the place proposed to be licensed is within a radius of 500 meters from a place of worship, educational institution, any other liquor outlet or public transport facility but the Board must endeavor to limit the negative impact of liquor outlets on residential areas.

Application for special event liquor licence 50

23. (1) "Special event liquor licence" means a licence issued in terms of this section of the Act authorising the licensee to sell, supply or allow consumption of liquor at such times, on such an event at the specified premises and subject to conditions specified in the licence.

(2) Any person may apply for a special event liquor licence in a prescribed manner. 55

(3) An application for the special event liquor licence must be made at least 30 days prior to the date of the special event, but the Board may condone the late submission of an application, and impose fines for late submission.

(4) Only the Board may consider and approve an application referred to in this section.

(5) A special event liquor licence may only be issued for a period not longer than seven days.

(6) On good cause shown by the applicant the Board may grant the licence for a period longer than seven days contemplated in subsection (5). 5

(7) In considering the application, the Board may—

(a) inspect the site development plan; and

(b) restrict the sale or consumption of liquor to designated areas on the site.

(8) The Board may after consideration of the application and any other document or matter which it regards relevant to the application, refuse the application or grant the application subject to conditions and such conditions must be set out in the licence. 10

Objections

24. (1) An interested person may within 21 calendar days from the date of the notice of application, lodge an objection as prescribed with the Board for the— 15

(a) granting of the licence contemplated in section 22; or

(b) approval of applications made in terms of section 58.

(2) The Board may on good cause shown condone an objection lodged after the period contemplated in subsection (1).

(3) The Board must inform the applicant of any objections lodged. 20

(4) The applicant has the right to reply to the objections or comments within a prescribed period.

Hearing of application

25. (1) The Board may convene a hearing to consider any application and objections to the application in question, on such date, time and place as prescribed. 25

(2) Interested persons must be afforded an opportunity to be heard and may be represented by persons of their choice.

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

Death or incapacity of licensee 30

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

(a) an executor of a deceased estate;

(b) a liquidator or trustee of an insolvent estate; and

(c) a curator. 35

(2) When a licensee dies, becomes insolvent, or is placed under curatorship, the administrator of the estate must, within a reasonable time, inform the Board of his or her appointment.

(3) The administrator may, for the purposes of administering the estate, continue to conduct the liquor business in the name of the estate or make an application to the Board to transfer the licence to another qualified person. 40

(4) A person not disqualified in terms of section 22(1) (d) may apply to the Board to conduct the liquor business of the licensee, pending the appointment of an administrator contemplated in subsection (2).

(5) A person appointed in terms of subsection (4) may, for the purpose of the licence issued in terms of section 29, continue to conduct the liquor business until notice is received that an administrator has been appointed. 45

Appeal

27. (1) A person who has lodged an application, an objection or representations and a licensee who feels aggrieved by a decision of the Board, may within 21 days of being served with a notice of the decision of the Board, lodge an appeal with the Appeal Board. 50

(2) An appeal must include the following—

(a) a copy of the application for, the objection against or representations regarding the liquor licence concerned;

(b) a written statement on the grounds of appeal; 55

- (c) the decision and reasons for the decision made in terms of section 22; and
- (d) any other information which may be relevant to the appeal.

Hearing of appeal

28. (1) Within 30 days after receiving all the documents referred to in section 27(2), the Appeal Board must consider the appeal. 5
- (2) The Appeal Board must in hearing the appeal consider amongst others, any objection lodged against the original application.
- (3) The Appeal Board—
- (a) may confirm, set aside or amend a decision of the Board; and
 - (b) must notify the applicant and the Board, in writing, of the decision within 14 10 days of deciding the appeal.

Issuing of licence

29. (1) When the Board approves an application for a liquor licence it must, subject to subsection (2) issue a licence in the prescribed manner, which must include the— 15
- (a) full names and trading name of the licensee;
 - (b) category of the licence;
 - (c) licence number;
 - (d) date of issue;
 - (e) date on which the licence expires;
 - (f) physical address in respect of which the licence has been issued; and 20
 - (g) conditions upon which the licence was approved, if any.
- (2) A licence must be issued upon payment of the prescribed liquor licence fee.
- (3) A licence issued must be recorded in the provincial register.
- (4) A liquor licence issued in terms of subsection (1) is proof that the licensee has met all requirements for a liquor licence in terms of this Act and is authorized to commence 25 trading.
- (5) The licensee must display the original licence, or a certified copy thereof, at the premises in respect of which the licence is issued.
- (6) When a licence is lost, stolen, damaged or destroyed, the licensee must in the prescribed form report the matter to the Board within 14 days, and apply for a duplicate 30 licence.
- (7) The licence remains the property of the Department and may not be sold and a transfer must be approved by the Board in terms of section 58.
- (8) The Board must on application as contemplated in subsection (6) issue a duplicate 35 licence upon payment of the prescribed fee.

CHAPTER 4

CONDITIONS APPLICABLE TO ON AND OFF-PREMISES CONSUMPTION LICENCES

Place for consumption of liquor for on-premises consumption licence

30. The licensee of an on-premises consumption licence must ensure that liquor sold 40 is consumed on the licenced premises in the designated areas only.

Accommodation liquor licence

31. (1) “Accommodation” in this section means premises wherein the primary business relates to lodging and ancillary uses including meals that are served to guests. 45
- (2) The licensee of an accommodation liquor licence must at all times maintain on the licenced premises, an accommodation business that provides lodging and meals regularly to guests.
- (3) Accommodation liquor licences are classified according to the size of the operations in the following four classes and separate fees are applicable accordingly— 50
- (a) Accommodation liquor licence A which caters for up to 20 guests;
 - (b) accommodation liquor licence B which caters for 21 to 50 guests;
 - (c) accommodation liquor licence C which caters for 51 to 100 guests; or
 - (d) accommodation liquor licence D which caters for more than 100 guests.

Restaurant liquor licence

32. (1) “**Restaurant**” in relation to this section means a premises at which meals are regularly supplied to guests;

(2) The licensee of a restaurant liquor licence must at all times maintain on the licenced premises, a restaurant at which meals are regularly served to guests.

(3) The licensee of a restaurant liquor licence may, despite any law to the contrary, sell liquor on any day during the prescribed times.

Theatre liquor licence

33. (1) “**Theatre**” in relation to this section means premises at which dramatic performances, plays, concerts or films are regularly presented or shown to the public.

(2) The licensee of a theatre liquor licence must at all times maintain on the licenced premises, a theatre at which dramatic performances, plays, concerts or films are regularly presented or shown to the public.

(3) The licensee of such a licence may sell or supply liquor only to persons granted access to the occasion referred to in subsection (2).

Tavern or Pub liquor licence

34. (1) “**Tavern or pub**” in relation to this section means a place whose main business is the supply of liquor, food and various forms of entertainment.

(2) The licensee of a tavern or pub liquor licence must at all times ensure that the licenced premises is separate from any other dwelling, especially a residential dwelling, or if attached to a dwelling, it must be separated by means of walls and securable doors.

(3) The licensee must at all times provide meals and may also provide entertainment acceptable in terms of the municipal by-laws applicable in that area on the licenced premises.

(4) The licensee of a tavern or pub liquor licence may, sell liquor on any day during the prescribed times.

Gaming premises liquor licence

35. (1) “**Gaming premises**” means gaming premises in terms of the Gauteng Gambling Act, 1995 (Act No. 4 of 1995), or any relevant gaming and gambling legislation; or such other gaming premises akin to same including but not limited to pool tables, darts, table soccer and any other instrument associated thereto.

(2) The licensee of a gaming premises liquor licence must provide light meals and supply liquor for consumption on the licenced premises.

(3) The licensee of a gaming premises liquor licence must conduct a lawful gaming business as a primary business, including betting, on the licenced premises.

(4) The licensee of a gaming premises liquor licence may, sell or supply liquor on any day during the prescribed times.

Sorghum beer liquor licence (on-premises consumption)

36. (1) The licensee of a sorghum beer liquor licence must sell only sorghum beer for consumption on the licenced premises.

(2) The licensee of a sorghum beer liquor licence who supplies sorghum beer for consumption on the licenced premises must provide light meals.

(3) The licensee of a sorghum beer liquor licence may, sell sorghum beer on any day during the prescribed times.

Special event liquor licence

37. (1) For a special event liquor licence as contemplated in section 23 the applicant must satisfy the Board that the sale of liquor is not the primary business of the applicant, but incidental to the occasion to be held by the applicant.

(2) Where the applicant is not the organiser of the event, the consent of the organiser to the proposed sale of liquor must be obtained and submitted with the application.

(3) The consent of the occupier or the person or authority having control of the premises where the licence will operate must be obtained and submitted with the application.

(4) The licensee of a special event must provide liquor to members or guests at the event for on-premise and off-premise consumption.

(5) The licensee of a special event liquor licence may, sell or supply liquor on any day during the prescribed times.

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

(7) A special event liquor licence may not be used as a substitute for a liquor licence.

(8) A different licence must be applied for in the event that an applicant applies for more than four special event liquor licences.

Sports facility liquor licence

38. (1) “**Sports facility**” in relation to this section, means a place where public sports, games or recreations are regularly held.

(2) The licensee of a sports facility liquor licence must at all times maintain the sporting facility on which public sports games or recreations are regularly held.

(3) The licensee of a sports facility liquor licence may, sell liquor on any day during the prescribed times on which public sports are held.

Function venue liquor licence

39. (1) “**Function venue**” means premises where the primary business is to provide facilities for conferencing, team building, meetings, parties, weddings, and other gatherings, and may include or exclude the provision of accommodation.

(2) The licensee of a function venue liquor licence must at all times maintain on the premises, a venue on which functions or events are regularly held and the patrons of the establishment being served liquor must be attendees of the function.

(3) The licensee of a function venue liquor licence may, sell liquor on any day during the prescribed times on which functions are held on the premises concerned.

Water borne vessel liquor licence

40. (1) “**Water borne vessel**” means a ship, boat, watercraft or floatation device of any description, irrespective of—

(a) the method of propulsion, or lack of any means of propulsion; and

(b) whether designed for use on the open sea, inland waters or enclosed bodies of water or pools.

(2) The licensee of a waterborne vessel liquor licence must at all times ensure that light meals are served to patrons and the licence issued must be linked to a specific water body.

(3) The licensee of a water borne vessel liquor licence may, sell liquor on any day during the prescribed times.

Place for off-premises consumption liquor licence

41. The licensee of an off-premises consumption licence must ensure that no liquor is consumed on the licenced premises.

Micro-manufacturer’s liquor licence

42. (1) Micro-manufacturing must be as prescribed and a micro-manufacturer’s licence may only be granted to a person who engages in the manufacturing of liquor.

(2) The licensee of a micro-manufacturer’s liquor licence may not sell or supply liquor to a person who is not the holder of a licence or to an exempted person.

(3) Subsection (2) does not apply to the sale of liquor for the purpose of section 44(1).

(4) Provisions of the National Liquor Act in relation to micro- manufacturing apply with the necessary changes in respect of micro- manufacturing licences in terms of this Act.

(5) The licensee of a micro-manufacturer’s liquor licence may, sell or deliver liquor on any day during the prescribed times.

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

43. (1) Approval may, on application, be granted by the Board when granting a micro-manufacturer's liquor licence to supply any liquor free of charge for tasting purposes in such place on the licenced premises to be set apart for that purpose, as the Board may determine, to— 5
- (a) a bona fide visitor to those premises;
 - (b) a bona fide guest; or
 - (c) subject to section 52(1)(a), a person employed in the carrying on of the business to which the licence relates, except an employee of the licensee who is a minor. 10
- (2) The Board may issue such approval subject to conditions set out in the approval as it may impose.
- (3) The Board may at any time after the issue of the approval, by a notice delivered to the licensee of the licence concerned—
- (a) declare the approval to be subject to such conditions or further conditions set out in the notice as it may impose; 15
 - (b) withdraw or amend any condition or declaration imposed or made by the Board;
 - (c) on application, re-determine the place contemplated in subsection (1); or
 - (d) withdraw any approval granted under subsection (1). 20

Liquor store licence

44. (1) The licensee of a liquor store licence may only sell liquor in a container that is sealed.
- (2) The licensee of a liquor store licence may, sell or supply liquor on any day during the prescribed times. 25

Grocer's wine liquor licence

45. (1) The licensee of a grocer's wine licence must at all times carry on the business of a grocer on the licenced premises.
- (2) The licensee of a grocer's wine licence may not sell liquor other than wine.
- (3) The licensee of a grocer's wine licence may, sell or supply liquor on any day during the prescribed times. 30

Sorghum beer liquor licence (off-premises consumption)

46. (1) The licensee of a sorghum beer liquor licence may, sell sorghum beer on any day during the prescribed times.
- (2) The licensee of a sorghum beer liquor licence may with the approval of the Board conduct any other business on the licenced premises. 35

Liquor club licence

47. (1) "liquor club" refers to wine clubs, whiskey clubs, brandy clubs, beer clubs or any other liquor clubs whose primary business relate to offering customers with a series or single selection of liquor. 40
- (2) The licensee of a liquor club licence must at all times maintain on the premises, a liquor club whose primary business relates to the supply of wine or whiskey to patrons strictly per order and invoice.
- (3) A liquor club licensee is permitted to allow patrons to conduct tasting of liquor on the premises. 45
- (4) Daily retail sale of general liquor stock that may under normal circumstances be present in a liquor store is not allowed.

Renewal of licence

48. (1) Every licence, except a licence issued for a specific period or special event, must be renewed annually within 12 months from date of issue by payment of a prescribed renewal fee and a supporting renewal application. 50

(2) Despite subsection (1), the Board must consider issues of compliance with the licence conditions and the Act when renewing a licence.

(3) After considering the renewal as contemplated in subsection (2), the Board may renew or refuse to renew the licence.

CHAPTER 5

5

PROHIBITIONS

Responsible sale and supply of liquor

49. (1) A licensee may not sell or supply liquor to
- (a) a minor;
 - (b) a learner who is dressed in a school uniform; or 10
 - (c) a person who appears to be reasonably intoxicated.
- (2) A licensee may not permit a person contemplated in subsection (1)—
- (a) to consume liquor on licenced premises under the control of the licensee;
 - (b) to be in or on any place within licenced premises where liquor is sold for consumption on the premises, except in a room where meals are served to diners; or 15
 - (c) to be in or on the licenced premises in which liquor is sold for consumption off the premises unless the licenced premises is a retail food store.
- (3) A licensee may not permit a minor or a learner who is dressed in a school uniform to be in the licenced premises where liquor is sold for consumption, unless the person is accompanied by a parent, guardian or other adult with the apparent consent of the parent or guardian, excluding restaurants. 20
- (4) A licensee may take reasonable steps to verify the age of any other person before selling or giving liquor to that person.
- (5) A licensee must visibly display in the licenced premises a notice stating that— 25
- (a) liquor may not be sold to persons under the age of 18 years, and that the manager or any person in charge of the premises may request the identity document of any person to verify his or her age before any liquor may be sold or supplied to him or her;
 - (b) liquor may not be sold to intoxicated persons; 30
 - (c) the consumption of liquor by a pregnant woman may cause harm to her and the unborn baby;
 - (d) drinking and driving is dangerous and illegal;
 - (e) no weapons or sharp objects are allowed in the premises;
 - (f) the owner of the premises reserves the right to search anybody with due regard to their privacy, the respect and protection of human dignity and bodily integrity before entering the premises or inside the premises; and 35
 - (g) the right of admission is reserved.
- (6) The MEC, by regulation, with the concurrence of any other Department may amongst others prescribe— 40
- (a) standards for notices required by subsection (5), and additional provisions to be included in such notices; and
 - (b) days and times during which liquor may not be sold.
- (7) Despite the prescribed times in the regulations the Board may deviate from the trading hours on good cause shown. 45
- (8) A licensee may not sell liquor on a day or at a time prohibited by regulation or the licence conditions.
- (9) A licensee may not employ a person, in connection with the sale of liquor, who is under the age of 18 years.
- (10) Subsection (9) does not apply to a registered student under the age of 18 years who is acquiring skills in a field of an accredited institution of learning. 50
- (11) A minor may not—
- (a) buy or attempt to buy liquor; or
 - (b) falsely represent himself or herself to be over the age of 18 years in an attempt to persuade another person to sell, supply or give liquor to the minor. 55
- (12) A person may not refuse to provide identification when required by a licensee for the purpose of verifying the person's age.
- (13) The MEC must promote, educate and raise public awareness on the rights and responsibilities of individuals in relation to the sale and consumption of liquor.

Prohibition of impotable substance

50. A licensee must not manufacture, sell, or supply as liquor any impotable substance, add an impotable substance to liquor, or sell or supply any liquor to which an impotable substance has been added.

Exemption by declaration of Board

5

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

- (a) 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; 10
- (b) if that person operates a bona fide museum and is licenced as a special customs and excise warehouse in terms of Item 810.20.10 of Schedule 8 to the Customs and Excise Act, 1964 (Act No.91 of 1964);
- (c) if that person is a collector of wine and that liquor consists of his or her collection of wine or any part thereof; or 15
- (d) if that person is a licenced auctioneer acting on behalf of a bona fide cultural or welfare organisation or an educational institution.

(2) A declaration issued under subsection (1) must be subject to such conditions set out therein as the Board may impose. 20

(3) The Board may at any time after the issue of a declaration under subsection (1) by a notice delivered to the person named in the declaration concerned—

- (a) impose such conditions or further conditions as may be set out in the notice;
- (b) withdraw or amend any condition imposed by it under this section; or
- (c) withdraw or amend the declaration. 25

Exemption from Act

52. This Act does not apply to—

- (a) an officer as defined in section 1 of the Customs and Excise Act, 1964 (Act No. 91 of 1964), in the performance of his or her functions;
- (b) a sheriff or deputy sheriff or any other officer acting in terms of an order of a court of law, in the performance of his or her functions; 30
- (c) a person selling liquor under the authority of the Minister of Defence;
- (d) 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; 35
- (e) the convenor of a wine-tasting function, with regard to the sale of wine in quantities of less than 200 millilitres at that function lasting not more than a day, for consumption at the function;
- (f) a person, with regard to the sale of any spirituous or distilled perfumery or medicated spirit, which perfumery or spirit is not methylated spirit; 40
- (g) the manufacturer or retailers of sweets containing less than two per cent by mass of alcohol; or
- (h) a company as defined in section 1 of the Airport Company Act, 1993 (Act No. 44 of 1993). 45

Variation, suspension or cancellation of licence

53. (1) If a licensee who has been served with a non-compliance notice does not comply with the requirements stated in the notice or becomes disqualified, the Board must—

- (a) amend or suspend the liquor licence on such terms and conditions as the Board may determine, or cancel the licence and notify the licensee, in writing, of the
 - (i) amendment, suspension or cancellation and state the reasons therefor; and
 - (ii) date on which the liquor licence was amended, suspended or cancelled; or 55
- (b) before amending, suspending or cancelling a licence, afford the licensee an opportunity to make written representations.

(2) When a liquor licence has been suspended or cancelled, all the rights, benefits and allowances accruing from it lapse on the date that the liquor licence was suspended or cancelled.

Appeal against amendment, suspension or cancellation of licence

54. (1) A licensee may, on the prescribed form, refer a decision of the Board to amend, suspend or cancel a licence to the Appeal Board. 5

(2) The appeal must include the following—

- (a) a copy of the non-compliance notice issued in terms of section 65;
- (b) steps taken by the licensee to comply with the terms of the non-compliance notice within the prescribed period; 10
- (c) a copy of the decision of the Board to amend, suspend or cancel the licence;
- (d) a written statement on the grounds of appeal; and
- (e) any other information which may be relevant to the appeal.

(3) Section 28 applies to the hearing of the appeal.

(4) If the Appeal Board upholds the appeal, the Board must re-instate the licence of the licensee by re-issuing the licence and amending the register accordingly. 15

Voluntary cancellation, winding up or dissolution

55. (1) A licensee may voluntarily cancel his or her licence by sending a written notice to the Board stating the—

- (a) intention and reasons for voluntary cancellation of the licence; and 20
- (b) date from which the cancellation is to take effect.

(2) If a licensee is—

- (a) sequestered;
- (b) wound up; or
- (c) dissolved, 25

the liquidator or the trustee of the estate must notify the Board in writing within six months after the sequestration, winding up or dissolution of the sequestration, and attach certified copies of all relevant documents confirming the sequestration, winding-up or dissolution.

- (3) On receiving the notice contemplated in subsection (2), the Board must,— 30
 - (a) on the date specified in the notice cancel the licence of the licensee; and
 - (b) notify the liquidator or the trustee of the estate, in writing, of the date on which the cancellation was effected.

Change of beneficial interest and control

56. (1) A person may make an application to the Board for the change of beneficial interest and control. 35

(2) The Board must in considering any application which may have the effect of a change of control consider among others the following—

- (a) whether such change may result in harmful monopolistic behavior;
- (b) whether it may lead to consolidation of licences held by the licensee; 40
- (c) the change in shareholding members interest relating to race and gender; and
- (d) whether the entity or person acquiring the shares has an existing licence.

(3) A licensee must not, unless the Board has on application by the licensee granted consent, permit any other person to procure a beneficial interest in the business entity to which the licence relates. 45

(4) The Board may not grant consent in terms of subsection (2), when the person who is the subject of the application, is disqualified in terms of section 22(1)(d) to be a licensee.

(5) A member of the public may object as prescribed to the granting of the licence in terms of this section. 50

Change or extension of core business

57. (1) A licensee must in the prescribed manner and on payment of a prescribed fee, make an application to the Board for the extension or change of core business for which a liquor licence was issued.

(2) The Board must, within 90 days of receiving the application, consider the application and may—

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

the application to extend or change the core business of the licensee.

5

Transfer of licence

58. (1) A licensee may, in the prescribed manner and on payment of the prescribed application fee, make an application to the Board for the transfer of a licence to another person.

10

(2) The Board must, within 21 days of receiving the application for a transfer of a licence, consider the application and in considering the application the Board must among others consider the following—

- (a) whether such transfer will result in harmful monopolistic behaviour;
- (b) whether such transfer may lead to consolidation of licences held by the licensee;
- (c) the change in shareholding members interest relating to race and gender; and
- (d) whether the prospective licensee has an existing licence.

15

(3) The Board after considering the application may—

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

20

the application for transfer of a licence.

(4) The Board may not grant an application for transfer unless it is satisfied that the person to whom the licence is to be transferred is not disqualified in terms section 22(1)(d).

25

(5) Upon granting an application for transfer the Board must issue, upon payment of a prescribed fee a certificate of transfer.

(6) When the application in subsection (1) is approved, the licensee ceases to be the licensee and all rights and obligations of the licence are transferred to the new licensee.

30

Register of licensees and provincial records

59. (1) The Board must keep a register of—

- (a) applications for licences;
- (b) compliance matters;
- (c) licences issued;
- (d) amended licences;
- (e) suspended licences;
- (f) withdrawn licences; and
- (g) refused applications.

35

(2) The MEC may by notice determine the format and manner of keeping the register.

40

Appointment of manager

60. (1) A juristic person may 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 22(1)(d) to hold a licence is appointed by it in the prescribed manner to manage and be responsible for its business provided that the appointment of the aforesaid person must be approved by the Board.

45

(2) A natural person who is a licensee may in the prescribed manner appoint another natural person who permanently resides in the Republic and who is not disqualified in terms of section 22(1)(d) to hold a licence, to manage and be responsible for the business to which the licence relates and the appointment of the aforesaid person must be approved by the Board.

50

(3) A person managing and responsible for a business, to which a licence relates, is subject to the same obligations and liabilities as the licensee concerned.

(4) Where an offence under this Act or the regulations is committed by a juristic person, a person managing and responsible for a business to which a licence relates may be guilty of the same offence as the juristic person and be jointly and severally liable to the penalty prescribed for the offence.

55

(5) Nothing in this subsection relieves the juristic person or the person who commits the offence from liability therefor, or releases the licensee from any obligation or liability to which he or she is subject in law.

(6) The Board may not grant an application for appointment of a manager unless it is satisfied that the person to be appointed is not disqualified in terms section 22(1)(d). 5

Nature of premises

61. (1) A licensee may 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, unless it is permitted by the Board in writing. 10

(2) Two or more premises under the same roof must for the purposes of subsection (1) be regarded to be one if those premises are not completely separated from each other by a wall in which there is no door, window or other aperture.

(3) The public area of on-consumption premises may not be less than the prescribed size, unless the Board determines otherwise. 15

(4) The total floor area of off-consumption premises may not be less than the prescribed size, unless the Board determines otherwise.

(5) Premises must comply with all laws, metropolitan, district or local council by-laws and regulations, including health and smoking laws.

Alteration of premises 20

62. (1) A licensee may not effect a structural alteration, addition or reconstruction to the licenced premises or licenced area, or extend the licenced premises or licenced area, except with the consent of the Board as prescribed.

(2) An application made in terms of this section must be accompanied by—

(a) building plans showing the proposed alteration; and 25

(b) a plan showing the premises and surrounding properties, with property details and roads where applicable;

(c) a sworn statement to the effect that the proposed alteration do not require municipal approval; and

(d) a municipal approved building plan must be submitted. 30

CHAPTER 6

PART 1: LAW ENFORCEMENT

Designation of inspectors

63. (1) The HoD may designate persons to be inspectors.

(2) The MEC may request the Minister of Justice to appoint inspectors designated in subsection (1) as peace officers in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), in order to exercise powers conferred on peace officers by law. 35

(3) The HoD must, in the prescribed manner, issue an inspector with a certificate declaring that he or she is an inspector designated in terms of subsection (1) of this Act and the certificate must be regarded as prima facie proof of the designation. 40

Powers and duties of inspectors

64. (1) An inspector must conduct an inspection of the premises in respect of every new application for a liquor licence.

(2) An inspector may— 45

(a) conduct inspections, monitor and enforce compliance of this Act and any other law which authorises him or her to conduct an inspection;

(b) investigate complaints submitted to the inspector in the prescribed manner;

(c) enter and question any person on any premises in respect of a matter which may be relevant to the inspection; 50

(d) question any person whom the inspector believes may have information relevant to the inspection;

- (e) order any person to appear before him or her at a reasonable time and place determined by the inspector with regard to the matter being investigated;
 - (f) inspect or copy any document, take photographs or make audio-visual recordings of any person, process, action or condition on or regarding any premises, and take samples of any substance that is relevant to the inspection; 5
 - (g) seize and remove any liquor that is sold or distributed contrary to the provisions of this Act;
 - (h) close down the licenced premises temporarily;
 - (i) seize any substance that appears to be prohibited in terms of section 6 of the National Liquor Act; and 10
 - (j) serve a non-compliance notice in the prescribed manner.
- (3) When entering the premises in terms of this section an inspector must—
- (a) identify himself or herself to the person in charge of the premises; and
 - (b) explain the authority in terms of which the inspection is being conducted.
- (4) An inspector must in a prescribed manner issue an inventory of all items removed 15 during an inspection, to the owner or person in control of the premises.
- (5) An inspector may when conducting an inspection be assisted by a member of the South African Police Service.
- (6) An inspector must keep a record of all instances of his or her exercise or powers and performance of duties in relation to licensees and it must be filed with the offices of 20 the Board as prescribed.

Non-compliance notice

65. (1) If a provision of this Act or a condition attached to a licence has not been complied with, an inspector must issue a non-compliance notice, in the prescribed manner, to the licensee or person in control of the relevant premises. 25
- (2) A non-compliance notice in terms of subsection (1) must set out—
- (a) the provision that has allegedly not been complied with;
 - (b) details of the nature and extent of the alleged non-compliance;
 - (c) the action required to be taken and the period within which the required action must be taken; and 30
 - (d) any fine that may be imposed in the event of non-compliance.
- (3) A non-compliance notice remains in force until an inspector issues in the prescribed manner, a compliance certificate to indicate the compliance, and a copy thereof must be filed with the offices of the Board.
- (4) An inspector must submit to the Board a copy of a non-compliance notice in a case 35 of a licensee who on more than three occasions contravenes the condition of a licence.

Closing down of licenced premises

66. (1) Where an inspector is aware that—
- (a) a public disturbance;
 - (b) disorder; 40
 - (c) a gross violation of the Act;
 - (d) a riot;
 - (e) on more than three occasions non-compliance with the provisions of the Act; or
 - (f) public violence, 45
- is occurring or threatening at or near any licenced premises, the inspector may order the licensee or the manager or agent of the licensee to close the licenced premises temporarily.
- (2) The licensee, manager or agent of the licensee, must comply with an order issued in terms of subsection (1). 50
- (3) Once the licensee complies with the order issued, the Board may at any time withdraw an order issued in terms of subsection (1).
- (4) The inspector must issue a notice stipulating the period of the temporary closure.
- (5) Where the temporary closure is for a period longer than 24 hours the licensee may make representations and give reasons to the Board within 7 days on why the premises 55 must not be closed permanently.
- (6) In taking the decision contemplated in (3), the Board will rely on, amongst other things, the report from the inspector.

(7) The licensee may lodge an appeal with the Board against the decision of the inspector to close down the premises.

Inspectorate reports

67. An inspector must submit a report to the Board—
- (a) providing information on matters to be taken into account in respect of an application for the licence; 5
 - (b) on any failure by a licensee to discharge an obligation or condition of the licence;
 - (c) of the disqualification of a licensee in terms section 22(1) (d) to hold the licence concerned; 10
 - (d) if alterations or repairs must be effected to licenced premises;
 - (e) if alterations were effected to licenced premises without the approval of the Board;
 - (f) on non-compliance of a licensee; and
 - (g) on any other matter regarding licences, which is important to bring to the attention of the Board. 15

Part 2: Offences

Offences in general

68. It is an offence for any person to—
- (a) sell liquor without a valid licence; 20
 - (b) supply liquor to a person in his or her employ as wages or remuneration or as a supplement therefore; or
 - (c) sell or supply illegal or counterfeit liquor.

Offences regarding information

69. (1) It is an offence to submit or provide information which is false, misleading or forged or a false document which purports to be but is not a true copy of an original document in relation to an application, appeal, objection, representations, reply to any objection, complaint or request. 25

(2) In the event of the applicant failing to comply with the provisions of this section, the Board may exercise its discretion to order that the applicant is disqualified to be a licensee. 30

Offences regarding inspectors and police officers

70. It is an offence for any person to—
- (a) falsely hold himself or herself out to be or impersonate, an inspector or police officer; 35
 - (b) refuse or fail to comply with a lawful demand, order or instruction of an inspector or police officer;
 - (c) hinder, obstruct or interfere with an inspector or police officer in the exercise of his or her powers and performance of his or her duties;
 - (d) refuse without lawful excuse to reply to a question put to him or her, or knowingly give false or misleading information to, the inspector or police officer; 40
 - (e) refuse to grant an inspector access to premises to which the inspector is duly authorised to have access;
 - (f) fail to comply with a non-compliance notice issued; 45
 - (g) act contrary to a warrant issued;
 - (h) fail or refuse to provide an inspector with a document or information which that person is lawfully required to provide; or
 - (i) furnish false or misleading information to an inspector.

Offences regarding meetings of the Board

71. It is an offence to—
- (a) fail to appear without a valid reason before the Board on the date and at the time and place set out in a notice or summons;
 - (b) appear before the board but without the leave of the chairperson fail to remain in attendance at the meeting concerned until the conclusion thereon; 5
 - (c) refuse to give evidence or produce any document or book;
 - (d) refuse to take the oath or make the affirmation, having been required by the chairperson or Board to take an oath or an affirmation;
 - (e) willfully interrupt the process at the meeting of the board or wilfully hinder or obstruct the board or any member thereof in the performance of his or her function at the meeting; or 10
 - (f) refuse to leave the meeting when ordered to do so by the chairperson.

Offences by licensees in general

72. It is an offence by a licensee to— 15
- (a) fail or refuse to comply with a condition or directive of a licence;
 - (b) keep the licenced premises open for the sale, supply or consumption of liquor or to sell or supply any liquor at a time when the sale of liquor is not permitted in terms of the licence;
 - (c) alter a licence; 20
 - (d) sell or supply liquor in a place where the sale or supply of liquor is not permitted in terms of the licence;
 - (e) fail or refuse to comply with a notice issued in terms of this Act or any direction or order of the Board;
 - (f) allow conduct associated with drunkenness on the licenced premises; 25
 - (g) allow the sale, use or possession of drugs upon the premises in contravention of a law dealing with such sale, use or possession;
 - (h) sell or supply liquor to an obviously intoxicated person;
 - (i) allow a person who has a weapon in his or her possession to enter the licenced premises; 30
 - (j) conduct structural alteration, addition or reconstruction of the licenced premises without the consent of the Board; or
 - (k) sell or supply liquor to a person under the age of 18 years; or
 - (l) in respect of an off-premise consumption licence, open or allow to be opened on the licenced premises a receptacle containing liquor sold by him or her. 35

Penalties

73. Any person who commits an offence in terms of this Act is on conviction liable to a fine or to imprisonment for a period not exceeding 10 years or both such fine and imprisonment.

CHAPTER 7

40

GENERAL TERMS

Regulations

74. (1) The MEC may make regulations regarding—
- (a) the procedure for the appointment of the Board and the Appeal Board members; 45
 - (b) licensing of traditional african beer;
 - (c) certain exemptions applicable to traditional african beer licences;
 - (d) the procedures in which applications may be made;
 - (e) documents that are to be lodged in support of the application;
 - (f) the requirements for newspaper and Provincial Gazette advertisements in respect of applications; 50
 - (g) the procedure in which objections and representations in support of an application must be made and lodged;
 - (h) the notification of the application;

- (i) notices and summons;
- (j) the format of a licence issued;
- (k) the payment of fees in respect of the issue of any licence;
- (l) the payment of fees for an application made;
- (m) the size of premises for off-premise and on-premise consumption liquor licences; 5
- (n) the empowerment of new entrants into the industry in respect of retail trade;
- (o) the format of a transfer certificate;
- (p) the renewal fee payable by the licensee;
- (q) the format of the non-compliance notice issued by the Board or Inspector; 10
- (r) the format of the form for lodging an appeal;
- (s) trading conditions, trading hours and trading days;
- (t) the format of the designation certificate of an inspector;
- (u) the format of the form on which a complaint may be lodged to an inspector;
- (v) the format of the receipt which must be issued by an inspector; 15
- (w) the records of inspectors;
- (x) the licensing of shebeens;
- (y) the format of a compliance certificate issued;
- (z) the sale and micro-manufacturing of methylated spirits;
- (aa) annual increment of fees; 20
- (bb) rules governing liquor consultants submitting applications in terms of the Act;
- (cc) lapsing and restoration of licences;
- (dd) fines to be imposed by the Board or inspectors; and
- (ee) all matters which are necessary to achieve the objects of this Act.
- (2) Regulations may provide for offences and penalties for contraventions thereof. 25

Delegation by MEC

75. (1) The MEC may in writing delegate any power conferred upon him or her by this Act to the Head of Department or any other person in the employment of the Department, except the power to make regulations.
- (2) A function so delegated, when performed by the delegate, must be regarded as performed by the MEC. 30
- (3) The delegation of any function under this section does not prevent the performance of such function by the MEC himself or herself.
- (4) Any delegation effected under subsection (1) may at any time be withdrawn in writing by the MEC. 35

Transitional provisions

76. (1) The Board contemplated in the Gauteng Liquor Act continues to exist and function as if it was established in terms of this Act.
- (2) Any person who, on the day before the date of commencement of this Act, was a member of the Board must continue to act as a member of the Board until the MEC has appointed a new Board in terms of this Act. 40
- (3) An application for a liquor licence made in terms of the Gauteng Liquor Act and not disposed of before the commencement of this Act must be continued and disposed of as if that Act were not repealed.
- (4) Every licence issued in terms of the National Liquor Act, 1989 (Act No. 27 of 1989) and not converted at the date of commencement of this Act as contemplated in terms of section 143 of the Gauteng Liquor Act, must be regarded to be a licence for a period of 12 months from the commencement of this Act, and the licensee of such a licence must apply for a licence in terms of this Act within that 12 months period. 45
- (5) A licence contemplated in subsection (4) lapses after 12 months from the date of commencement of this Act if no application for a new licence has been made in terms of this Act. 50
- (6) Any condition imposed in relation to a licensee or licence or trading hours which applied to licences issued in terms of the provisions of the National Liquor Act and the Gauteng Liquor Act, upon renewal is subject to this Act and the conditions granted upon renewal in terms of this Act apply. 55
- (7) Any debt due to the Board established in terms of the Gauteng Liquor Act becomes due and payable to the Board and the Board has the right to institute legal proceedings in relation thereto.

(8) The Board has the right to prosecute or defend any legal proceedings that have been instituted by or against the Board contemplated in the Gauteng Liquor Act prior to the commencement of this Act.

(9) Licences issued in terms of the Gauteng Liquor Act must be renewed in terms of this Act upon its commencement. 5

(10) Conditions applicable to licensees in relation to—

(a) prohibitions;

(b) exemptions;

(c) enforcement and judicial proceedings;

(d) offences and penalties; 10

(e) compliance; and

(f) renewals in terms of the Act apply to all shebeen licences.

Repeal of laws and savings

77. (1) This Act repeals the Gauteng Liquor Act.

(2) This Act does not repeal the Gauteng Liquor Regulations, 2004 in so far as they 15 refer to shebeen licences as contemplated in section 141(m) of the Gauteng Liquor Act.

(3) The Regulations contemplated in subsection (2) continue to apply until the MEC by notice in the Provincial Gazette repeals them.

Short title

78. This Act is called the Gauteng Liquor Act, 2014. 20