

EXPLANATORY MEMORANDUM
TO THE
LIQUOR LICENSING ACT 1997

OUTLINE

The purpose of the Act is to control the sale of liquor in the Country and to maintain a stable control over abuse of liquor by consumers and liquor houses.

NOTES ON CLAUSES

PART ONE PRELIMINARY

Clause 1 - Short title and commencement

2. This clause provides for the citation of the liquor Licensing Act 1997 and for its commencement on a date to be appointed by the Minister in the Gazette.

Clause 2 - Interpretation

3. This clause defines the terms used in the Act.

PART II - LIQUOR LICENSING BOARD

Clause 3 - Establishment of Board

4. This clause provides for the creation of a board which will issue licences.

Clause 4 - Membership of Board

5. This clause stipulates the composition of members of the board. It designates the calibre of persons to constitute such a board.

Clause 5 - Functions of Board

6. This clause prescribes The day to day functions of the Board, its full mandate and its capabilities.

Clause 6 - Tenure of member of Board

7. This clause clarifies how long members of the Board who arc lot public servants will hold office.

Clause7 - Renumeration and allowances of Board

8. This clause stipulates that the members of the Board who are not public servants will be paid some money for attendance.

Clause 8 - Resignation of members of Board

9. This clause allows the members of the Board who arc not public servants to resign in writing on their own accord.

Clause 9 - Termination of appointment of members of Board

10. This clause gives The Minister power to terminate the appointment of the members of the Board who are not public servants.

Clause 10- Acting appointment of members of Board

11. This clause grants the Minister power to appoint a person to act as a member on behalf of the actual member.

PART III - TYPES OF LICENCES

Clause 14 - Types of licences

15. This clause lists thirteen types of licences which will be issued to those who will apply and qualify to operate such businesses. These licences will only he issued by the Board.

Clause 15 - Lodge, motel, resort or hotel liquor licences

16. This clause provides for the conditions under which such licences will be issued to enable such businesses to sell liquor.

Clause 16 - Restaurant liquor licences

17. This clause stipulates the conditions under which a licence to sell liquor in a restaurant will be issued.

Clause 17 - Club liquor licence

18. This clause stipulates the conditions under which a licence to sell liquor in a club will be issued.

Clause 18 - Tavern, shebeen, discotheque, night club or off-sale liquor licence

19. This clause describes conditions under which these business will sell liquor.

Clause 19 - Service canteen liquor licence

20. This clause provides forte conditions under which sale of liquor within the barracks of the armed forces, police and prisons will be carried out.

PART IV - ISSUE OP LICENCES

Clause 20 - Prohibition on sale of Liquor

21. This clause prohibits any person to sell liquor without a valid licence and further prohibits the sale of liquor outside the prescribed hours.

Clause 21 - Application for licence

22. This clause provides for the application of a licence its renewal, review, variation, transfer, removal withdrawal and cancellation of a licence. It provides that in order to achieve any of the above such person should apply to the Board, in writing, three months before the Board's next sifting.

The clause further describes a procedure to be followed in lodging the application for a new licence, its renewal, review variation, suspension, transferal or cancellation.

Clause 22- Duration and renewal of licence

23. This clause provides that a licence is valid for a period of one year from the date on which it was issued and That an application for its renewal must he lodged Three months before its expiry failing which, The applicant will pay a penalty.

Clause 23 - Inspection report

24. This clause provides for the bodies which are authorised to inspect the business premises under the Act and make reports. The reports will be considered by the Board before it determines any application. The applicant is free to inspect the reports.

Clause 24 - Suspension or cancellation of licence

25. This clause gives The Board the power to refuse, to renew a licence, to vary, suspend or to cancel a licence if it no longer satisfies the condition under which it was issued. It also gives the Board power to issue a similar licence for a period of six months to enable the applicant to wind up the business.

Clause 25 - Lost or destroyed licence

26. This clause provides for an application of a duplicate where the licence has been lost or destroyed.

Clause 26- Display of licence

27. This clause provides for the display of a licence on the licensed premises and prohibits the alteration of the name of the licensed premises without the Board's approval.

PART V - LIQUOR PERMIT

Clause 27 - Liquor Permit

28. This clause provides for the issuance of a temporary permit for the sale of liquor at a prescribed time, date, premises and place.

Clause 28 - Application for Permit

29. This clause sets the procedure to be followed in applying for a permit.

Clause 29- Issue of Permit

30. This clause states the issues which the Board will consider before issuing the permit.

Clause 30 - Consideration of application for Permit

31. This clause provides for the calling of a Board meeting to consider an application for a permit.

PARE VI - APPEALS

Clause 31 - Appeals

32. This clause sets out the time within which, a procedure and the requirements to be met by the applicant who has been aggrieved by the decision of the Licensing Board and wishes to appeal to the Appeals Board.

PART VII - APPEALS BOARD

Clause 32 - Appeals Board

33. This shall be the same Board as established under section 26 of the Accommodation, Catering, and Tourism Enterprises Act 1997.

PART VIII - OFFENCES AND PENALTIES

Clause 33 - Breach of terms of licence or permit

34. This clause makes it an offence for a licensee or a holder of a permit to sell liquor at a place or time not authorised by the licence or permit, or In violation of the terms or conditions or the licence, and specifies The punishment or penalty for that offence.

Clause 34 -Dealing in liquor without licence

35. this clause prohibits the sale of liquor without a licence and sets out The penalty for first and subsequent offenders.

Clause 35 - Management and responsibility

36. This clause prohibits employment of any person under the age of 18 years to manage or conduct any business on the licensed premises, and sets out a punishment for that offence.

The clause further provides for the appointment of a person to conduct the business in the event of the death of a licensee.

Clause 36 - Offences by licensees

37. This clause stipulates offences which may be committed by a licensee and sets out a punishment. It also makes a distinction before a holder of a bottle store licence and any other licensees.

Clause 37 - Offences by persons generally

38. This clause should be distinguished from the preceding clause in that it sets out offences which may be committed by persons generally other than licensees. Like the preceding clause it also sets out the punishment for the commission of the said offences.

Clause 38 - Restriction on credit sales of liquor

39. This clause prohibits the sale of liquor on credit except, where, for instance, it is at a club, or for consumption with a meal, or is for consumption on the premises or to a person boarding of lodging in the licensed premises.

Clause 39 - Supply of liquor to children prohibited

40. This clause prohibits the sale of liquor to children under the age of 18 years. It also sets out the defence that the defendant may raise.

Clause 40 - Prohibited employment

41. This clause should be read together with clause 36 in that it prohibits the employment of a person under the age of 18 years to sell liquor on licensed premises. It also provides a defence which may be raised by the defendant.

Clause 41 - Power to remove persons

42. This clause gives the licensee or his employee power to refuse to serve or to expel a person who is drunk, violent quarrelsome or disorderly from the licensed premises. It also permits a police officer or any other person to assist in so removing such a person.

Clause 42 - Provision of food

43. This clause provides that, except for an off- sales liquor licensee, all licensees should provide food for sale on their licensed premises. It also prescribes a penalty for failure to do so.

Clause 43 - General penalty

44. This clause provides for a general penalty for contravention of any provision of this Act for which no penalty has been provided. It also provides that the proceeds realised from the sale of forfeited liquor are to be paid into the Consolidated Fund unless the liquor has been destroyed by order of the Court.

PART IX – MISCELLANEOUS

Clause 44 - Purchase of liquor by a licensee or permit holder

45. This clause designates Maloti Mountain Brewery as the company from which licensees, other than a holder of a shebeen licence, may purchase their liquor. A shebeen licensee is to purchase his liquor from an off – sale.

Clause 45 - Regulations

46. this clause gives The Minister a general power to make Regulations to this Act in order to give effect to the provisions Thereof 'This includes the power to prescribe fees, forms and setting penalty for non-compliance.

Clause 46- Transitional

47. This clause provides for a transitional period before this Act comes in to effect. This will enable businessmen to change over to new kinds of business in good time.

Clause 47 - Repeal

48. This clause provides for repeal of the Liquor Licensing Act of 1976 and the Regulations and Notices made under it.

SCHEDULE I

(Section 18(1))

MINIMUM REQUIREMENTS FOR PREMISES

LIQUOR LICENSING ACT 1997

ARRANGEMENT OF SECTIONS

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PART VIII - OFFENCES AND PENALTIES

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PART IX - MISCELLANEOUS

- 44. Purchase of liquor by licensee and permit holder
- 45. Regulations
- 46. Transitional
- 47. Repeal

LIQUOR LICENSING ACT 1997

An ACT

for

An Act to provide for the licensing of the sale of liquor and for related matters

Enacted by the Parliament of Lesotho

PART I - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Liquor Licensing Act 997 and shall come into operation on a date to be appointed by the Minister by notice in the Gazette.

Interpretation

2. In this Act -

“Board” means the liquor Licensing Board established under section 3;

“service canteen” means premises offering liquor to members of the Lesotho Defence Force, Police Force, National Security Service and Prisons Service within their barracks or camps;

“Chairman” means the chairman of the Board;

“discotheque” means premises within a hotel offering music for dancing on a payment of a price;

“licence” means a licence issued under section 14(1);

“licensed premises” means premises in respect of which a licence is in force;

“licensee” means a holder of licence.

“liquor permit” means a permit issued under section 29.

“Minister” means the minister responsible for Tourism

“night – club” means premises offering entertainment and liquor;

“ off - sale” means premises offering liquor for consumption off the premises;

“prescribed” means prescribed by regulations made under section 45;

“public bar” means premises situated in the urban area offering liquor for consumption on the premises;

“shebeen” means premises which are part of dwelling house offering liquor to persons for consumption on the premises; and

“tavern” means premises other than a dwelling house offering liquor for consumption on the premises.

PART II - LIQUOR LICENSING BOARD

Establishment of Board

3. There is established a board to be known as the Liquor Licensing Board.

Membership of Board

4. (1) The Board shall consist of –
- (a) the Principal Secretary of the Ministry of Tourism, or his representative who shall be the Chairman
 - (b) a member nominated by the Principal Secretary of the Ministry of Health;
 - (c) a member nominated by the Commissioner of the Police;
 - (d) the Commissioner of Trade;
 - (c) the Managing Director of the Lesotho Tourist Board; a member nominated by the Hotels Association;
 - (g) a member nominated by the Restaurants Association;
 - (h) a member nominated by the Lesotho Chamber of Commerce and Industry;
 - (i) a member nominated by the Lesotho Consumer Association;

- (2) The Secretary to The Accommodation, Catering and Tourism Enterprises Board

shall be the Secretary to the Board.

- (3) The Minister shall appoint the members by notice in the Gazette.

Functions of Board

5. (1) The functions of the Board are –
- (a) to consider applications for liquor licences;
 - (b) to issue, renew, vary, review, transfer, suspend, revoke or cancel licences; and
 - (c) to investigate and determine complaints relating to licences.

(2) In determining a complaint under subsection (1)(c) the Board may inspect the licensed premises.

Tenure of members of Board

6. A member referred to in section 4(1) (1), (g), (b) and (I) shall hold office for a period of three years from the date of his appointment and is eligible for reappointment.

Remuneration and allowances of Board

7. A member of the Board who is not a public officer shall be paid such remuneration and allowances as the Board, with the approval of The Minister acting in consultation with the Minister of Finance, may determine

Resignation of members of Board

8. A member referred to in section 4(1) (f), (g), (h) and (I) may resign from office, by notice in writing, delivered to the Minister.

Termination of appointment of members of Board

9. The Minister may terminate the appointment of member referred to in paragraphs 4(1) (f), (g), (h), and (I) -

- (a) for misbehaviour or physical or mental incapacity;

- (b) if the member fails, without reasonable excuse, to comply will, an obligation imposed by section 12(3); or
- (c) if the member is convicted hi Lesotho or elsewhere of an offence involving moral turpitude and sentenced to a term of imprisonment exceeding six months.

Acting appointment of members of Board

10. The Minister may appoint a person to jet as a member dining a period when the member is for any reason unable to perform the duties of the office.

Meetings of Board

11. (1) lie Board shall sit quarterly to consider new applications for licences and monthly to consider renewal of licences oil such a date, at such a time and place as it may determine

(2) The Chairman may, at any time, convene a meeting of the Board.

(3) At the meeting, the Chairman and four other members shall constitute a quorum.

(4) The Chairman shall preside at all meetings of the Board.

(5) A decision of the Board shall be determined by a major of votes of the members present and voting at a meeting.

(6) The Chairman at a meeting has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(7) A member referred to in section 4(l) (f), (g),(h) and (I) who fails to attend three consecutive meetings of the Board shall be deemed to have vacated the membership of the Board.

Procedure at Board meetings

12. (1) The Board shall determine its own procedure.

(2) The Board may invite to its meetings, any person whom it considers appropriate to consult for the purpose of enabling it to exercise or perform its functions effectively.

(3) A member who has direct or indirect interest in the consideration and determination of an application for a licence shall -

- (a) disclose the nature of the interest at tie meeting of the Board~ and

(b) not take part in the proceedings in which the application is heard.

(4) An applicant for the issue of a licence or permit shall be present at the meeting of the Board at which his application is to be considered.

(5) An applicant for the renewal of a licence shall not be obliged to attend or be represented at a meeting of the Board unless the Board directs otherwise.

(6) The Board shall keep a record, in writing, of its proceedings

Evidence before Board

13. The Board may take evidence from any person in respect of a question to be determined and the evidence shall be given on oath administered by the Chairman and recorded.

(2) The Board may, in writing, require a person who -

(a) has made an application to it for a new licence, renewal, variation, transfers, removal, suspension or cancellation of a licence; or

(b) is, in the opinion of the Board, able to identify as to the matter before the Board,

to appear before it and may require the person to produce, before it, a book or document in his possession or control which is relevant to the matter

(3) A person who refuses or fails, without good cause, to -

(a) attend and give evidence before the Board at the time and place specified in the notice; or

(b) produce the book or document which he has been required to produce,

commits an offence and is liable on conviction to a fine of M1,000 or imprisonment for one year or both.

PART III - TYPES OF LICENCES

Types of Licences

14. (1) The Board may issue, renew, vary, review, transfer, remove, suspend or cancel the following licences -

(a) a hotel liquor licence;

- (b) a tavern liquor licence;
- (c) an off-sale liquor licence;
- (d) a club liquor licence;
- (e) a service canteen liquor licence;
- (f) a discotheque liquor licence;
- (g) a motel liquor licence;
- (h) a night-club liquor licence;
- (I) a lodge liquor licence;
- (j) a public bar liquor licence;
- (k) a shebeen liquor licence;
- (l) a restaurant liquor licence; and
- (m) a resort liquor licence.

(2) A licence issued by the Board shall only be in respect of the premises specified in the licence.

(3) the Board may impose such restrictions and conditions on a licences as it thinks fit and direct that it be endorsed on the licence.

(4) A licence issued, other than, at a properly constituted meeting of the Board or contrary to a provision of this Act is of no effect.

Lodge, motel, resort or hotel liquor licence

15. (1) A lodge, motel, resort or hotel liquor licence authorises the licensee to sell liquor on the licensed premises to persons for consumption on those licensed premises.

(2) The Board shall not issue or renew a lodge, motel, resort or hotel liquor licence unless it is satisfied that -

- (a) the applicant is a holder of a valid lodge, motel, resort or hotel licence obtained under the Accommodation, Catering and Tourism Enterprise Act 1997;
- (b) the applicant operates or proposes to operate on the premises in respect of which the application is made, a *bona fide* lodge, resort, motel or hotel at which meals and accommodation are offered to guests;

- (c) in the case of renewal, the applicant has not violated a condition of the licence; and
- (d) the applicant is a fit and proper person to whom a licence may properly be issued.

Restaurant liquor licence

16. (1) A restaurant liquor licence authorises the licensee to sell liquor on the licensed premises to persons for consumption with on those licensed premises.

(2) The Board shall not issue, renew, review, vary, suspend, transfer, remove or cancel a restaurant liquor licence unless it is satisfied that -

- (a) the applicant is a holder of a valid restaurant licence issued under the Accommodation, Catering and Tourist Enterprise Act 1997;
- (b) the applicant keeps or proposes to keep, or the premises in respect of which the application is made a *bona fide* restaurant at which ordinary meals are or will regularly be served to guests;
- (c) in the case of renewal, the applicant has not violated a condition of the licence; and
- (d) the applicant is a fit and proper person to whom a licence may properly be issued.

Club liquor licence

17. (1) A club liquor licence authorises the licensee to sell liquor on the licensed premises to members for consumption on those licensed premises.

(2) The Board shall not issue or renew a club liquor licence unless it is satisfied that -

- (a) the applicant operates or proposes to operate on the premises in respect of which the application is made, a *bona fide* club; and
- (b) in the case of renewal, the applicant has not violated a condition of the licence.

Tavern, shebeen, discotheque, night club or off - sale liquor licence

18. (1) A tavern, shebeen, discotheque or nightclub liquor licence authorises the licensee to sell liquor on the licensed premises for consumption to persons on those premises.

(2) An off sale liquor licence authorises the licensee to sell liquor on the licensed premises, in sealed containers, to persons for consumption away from those licensed premises

or a place adjoining or near those licensed premises which is in the occupation or control of the licensee

(3) The Board shall not issue, renew, vary, review, transfer, remove, suspend or cancel a tavern, shebeen, discotheque, night club or off-sale liquor licence unless it is satisfied that -

- (a) the applicant proposes to operate, on the premises in respect of which the application is made, *a bona fide* tavern, shebeen, discotheque, night club or off-sale;
- (b) the premises in respect of which the application is made complies with the minimum requirements set out in Schedule I and are sufficiently complete to be occupied for the purpose of the licence
- (c) that the distance between the premises and the hospital, place of worship or school is less than half a kilometre;
- (d) that the issue of such licence would conflict with any approved or proposed town, planning scheme;
- (e) the applicant is a fit and proper person to whom a licence may properly be issued; and
- (f) in the case of renewal, the applicant operates, *a bona fide* shebeen discotheque, night club or off-sale and has not violated a condition of the licence.

Service canteen liquor licence

19. (1) The Board may issue a service canteen liquor licence to the Lesotho Defence Force, Police Force, National Security Service and Prison, Service.

(2) A service canteen liquor licence shall authorise the sale of liquor at anytime, for a period not exceeding twelve months and at a place as may be specified on the licence.

(3) Before considering an application for a service canteen liquor licence, the Board shall require the applicant to produce a certificate stating -

- (a) the full names of the applicant;
 - (b) the place at which the service canteen is to be operated; and
 - (c) the period for which the licence is applied.
- (4) Where the applicant is -
- (a) the Lesotho Defence Force, the certificate shall be signed by the Commander of the Armed Forces;

- (b) the Lesotho Defence Force, the certificate shall be signed by the Commissioner of Police.
- (c) the National Security Service, the certificate shall be signed by the Director - General of the National Security Service; or
- (d) the Prison Service, the certificate shall be signed by the Director of Prisons.

PART IV - ISSUE OF LICENCES

Prohibition on sale of liquor

20. (1) No person shall sell liquor unless he has obtained a licence to do so from the Board.

(2) A licensee, his employee or agent shall not, except during the hours specified in the regulations for the sale of liquor, sell or supply liquor to any person on the licensed premises whether to be consumed on or off the premises.

Application for licence

21. (1) A person desiring -
- (a) to obtain a licence mentioned in section 14(1);
 - b) to renew, review, vary, suspend the licence;
 - (c) transfer his licence to another person;
 - (d) to remove or withdraw a licence from the licensed premises; and
 - (e) to suspend or cancel a licence,

may make an application, in the prescribed form, to the Board three months before the next sitting of the Board.

- (2) The application shall be -
- (a) lodged with the Secretary to the Board who shall refer it to the Board;
 - (b) accompanied by such fees as the Minister may determine;
 - (c) accompanied by a certified copy of the deed where the applicant is a partnership;

- (d) accompanied by certified copies of the company's memorandum and articles of association where applicant is a company; and
 - (c) accompanied by a lease, sub-lease, Form C₂ issued by the relevant local authority or an authenticated letter showing ownership where the applicant is the owner of the premises.
- (3) The application shall set forth -
- (a) the full names of the applicant and full names of the partners or directors if any;
 - (b) the nature or description of the licence sought to be obtained, renewed, reviewed, varied, suspend, transferred, removed or cancelled;
 - (c) the location of the premises where the business is intended to be carried on, including the number or name of the house and street or road, if any, and the number or other designation of the site; and
 - (d) a description of the premises which shall be submitted together with a plan.
- (4) The Board shall determine whether or not the location of the premises in respect of which the business is proposed to be carried on is suitable for the business.
- (5) If the Board approves the location, the applicant shall submit to the Board a description of the premises which shall be accompanied by a plan of the proposed business premises.
- (6) The plan shall be drawn to scale, clearly showing time dimensions and arrangements of the internal and external structure including doors, windows and other means of external and internal communication and a street or place to which such means of external communication lead, and shall be authenticated by the Ministries of Health and Tourism and in the City of Maseru, the Maseru City Council.
- (7) The plan shall not be necessary in the case of an application for renewal of a licence if the applicant submits, with the application, an affidavit that since the last application for a licence the premises have undergone no change or have undergone only minor changes of structural arrangements, of which full particulars shall be submitted to the Board at time of filing that application.
- (8) The Board may waive a technical defect which appears in an application for a licence if the Board is satisfied that the defect is not a material one.

Duration and renewal of licence

22. (1) A licence shall be valid for a period of one year from the date on which it is

issued.

(2) An application for the renewal of the licence shall be lodged with the Board three months before the date of its expiry.

(3) A licensee who fails to lodge an application for renewal within three months shall be liable to pay a late application fee as the Minister may prescribe by regulations.

Inspection report

23. (1) The Police Department, Ministries of Tourism and Health and in the City of Maseru, the Maseru City Council shall inspect the premises in the respect of which an application is made and respectively submit, to the Board, a report which shall be in the prescribed form.

(2) The Board shall, before issuing, renewing, reviewing, varying, suspending, transferring, removing or canceling a licence consider the reports.

(3) The reports shall, at all times, be open for inspection by the applicant.

Suspension or cancellation of licence

24. (1) Where the Board is satisfied that the licenced premises no longer satisfy the conditions for which a licence was issued it may -

- (a) refuse to renew the licence;
- (b) vary or suspend the licence until those conditions are complied with;
or
- (c) cancel the licence.

(2) Where the licence is cancelled or the application for renewal is refused, the Board shall, on payment of a proportionate part of the prescribed fee by the licences, issue a licence of the type cancelled or not renewed or a period not exceeding six months, as the Board considers adequate to enable the business to be disposed of or wound up.

Lost or destroyed licence

25. A licensee whose licence has been lost or destroyed may, on payment of the prescribed fee obtain a duplicate licence from the Board.

26. (1) A licensee shall keep and display his licence at a conspicuous place on the licensed premises.

(2) A licensee shall not alter a name of the licensed premises unless he has informed the Board about the alteration and the Board has endorsed the alteration on the licence.

PART V – LIQUOR PERMIT

Liquor permit

27. A liquor permit authorises the permit holder to sell liquor —
- (a) between such prescribed period;
 - (b) on such prescribed date;
 - (c) on prescribed premises;
 - (d) in such a prescribed place; and
 - (e) subject to such other conditions as may be specified on the permit.

Application for permit

28. (1) A person desiring to obtain liquor permit may, at any time, make an application in writing to the Board.

(2) The application shall be submitted together with such fees as the Minister may determine and shall state -

- (a) full names of the applicant;
- (b) the nature of the function and the date on which it is to be held;
- (c) the reasons for making the application;
- (d) times within which liquor is to be sold; and
- (e) the location and a description of premises on and places in which liquor is to be sold.

Issue of permit

29. (1) The Board may issue a liquor permit, if it is satisfied -
- (a) that the facts stated in the application are true, and

(b) that the issuance of the permit is not contrary to public interest.

(2) The Board shall issue the permit subject to such terms and conditions

Consideration of application for permit

30. The Chairman shall, for the purpose of considering an application for a permit, convene a meeting of the Board at such a time and place as he may determine.

Appeals

31. An applicant for the issue, transfer or renewal of a liquor licence, who is aggrieved by the decision of the card may, within 14 days of being informed of the decision, appeal against that decision to the Appeals Board by giving notice of appeal to the Secretary of the Appeals Board, in which he shall set out fully the grounds upon which the appeal is based.

PART VII – APPEALS BOARD

Appeals Board

32. The Appeals Board shall be the Appeals Board established under section 25 of the Accommodation, Catering and Tourism Enterprise Act, 1997 and the provisions relating to the Appeals Board under the Act shall apply.

PART VIII – OFFENCES AND PENALTIES

Breach of terms of licence or permit

33. A licensee or a holder of a permit who sells or exposes for sale or in any way deals in liquor -

- (a) at a place other than at which he is authorised to do so by the licence;
- (b) at a time when he is not authorised to do so; or
- (c) in violation of any other term or condition of his licence,

commits an offence and is liable on conviction to a fine of M1,00000 or imprisonment for year or both.

Dialing in liquor without licence

34. (1) A person who sells or exposes for sale liquor without a licence commits an offence and is liable -

- (a) on first conviction, to a fine of M5,000 or imprisonment for five years; and
- (b) on second or subsequent convictions, to a fine of M8,000 or imprisonment for eight years or both

(2) Upon conviction, all liquor found in the possession of the person shall be forfeited to the Crown.

(3) Notwithstanding subsection (2), where the person is authorised to obtain a renewal of a licence but omits to do so immediately on expiry of his previous licence, the forfeiture shall be in the discretion of the court which convicts him.

(4) A person who is unlicensed -

- (a) has a sign or notice purporting that he is licensed;
- (b) has a house or premises fitted up with a bar or other place containing bottles, casks or vessels so displayed as to induce a reasonable belief that liquor is sold within the premises; or
- (c) keeps on the premises more liquor than is reasonable required for persons residing therein,

the fact shall be *prima facie* evidence of a contravention of subsection (1).

Management and responsibility

35. (1) No person shall employ or allow a person under the age of 18 to manage, superintend or conduct any business on the licensed premises.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of M1,000 or imprisonment for one year or both.

(3) In the event of

- (a) the death of a licensee -

- (I) the widow;
 - (ii) the executor of his estate;
 - (iii) the curator *bonis* appointed by the Master of the High Court; or
 - (iv) any other person approved by the Chairman of the Board; or
- (b) insolvency office licensee, the trustee of the insolvent estate,

may carry on the business of the licensee without any formal transfer of the licence until the end of the period for which the licence is issued and the person shall possess all the rights, and be subject and liable to all duties, obligations and penalties of the licensee.

(4) Where the transfer is within the immediate family of the deceased licensee, no transfer fee shall be payable.

Offenses by licensees

36, (1) A licensee commits an offence and is liable on conviction to a fine of M1,000.00 or imprisonment for one year the, his servant or agent -

- (a) permits drunkenness, any riot or other disturbance to public order to take place upon his licensed premises;
 - (b) sells or supplies liquor to a person who the licensee, servant or agent has reasonable grounds for believing is intoxicated;
- I
- {c) sells, supplies or delivers liquor to a person who is under the age of 18;
 - (d) permits an unlawful game or gambling to be carried on his premises;
 - (e) permits his licensed premises to be used as a brothel or habitual resort of reputed prostitutes; or
 - (f) fails to render assistance to the best of his ability to a police officer engaged in his duty within or about his licensed premises or in any way attracts or hinders the police officer in the performance of his duty under any other law,

(2) A holder of a licence other than an off sale liquor licence commits an offence and is liable on conviction to a fine of M1, 000 or imprisonment for one year or both if he -

- (I) permits a person who purchases liquor from his licensed premises to take the liquor away from the premises; or

- (ii) sells and supplies to a person, a quantity of liquor than that which may reasonably be consumed by the person on the licensed premises
- (3) A holder of an off-sale liquor licence commits an offence the -
 - (a) permits a person to consume liquor on the licensed premises;
 - (b) sells, supplies or delivers to a person liquor other than in a securely sealed container; or
 - (c) opens or permits a person to open a container or liquor on the licensed premises or any other premises adjoining or near the licensed premises which are under the control of the licensee,

and is liable on conviction to a fine of M1,000 or imprisonment for one year or both.

Officers by persons generally

37. A person who -

- (a) submits to the Board any written information which he knows to be false, a false document or document which purport to be, but which is not, in fact a true copy of the original or is in any way a party to such submission;
- (b) after being duly sworn, gives false evidence before the Board on any matter relevant to the question under enquiry by the Board, knowing the evidence to be false
- (c) refuses or fails to leave the licenced premises when requested by the licensee his servant or agent or any member of the police to do so;
- (d) is drunk, violent or disorderly upon the licenced premises;
- (e) purchases or obtains liquor at a time when or at a place where it is unlawful for such liquor to be sold to him or in circumstances which are contrary to a provision of this Act; or
- (f) procures or aids a drunken person to obtain liquor,

commits an offence and is liable on conviction to a fine of M600 or imprisonment for six months or both.

Restriction on credit sales of liquor

33. (1) No person shall sell or supply liquor on credit unless -
- (a) the person is a holder of a club liquor licence;
 - (b) the liquor is supplied for consumption with an ordinary meal
 - (c) is consumed on the premises; or
 - (d) the liquor is supplied in moderate quantity to the order of the person boarding or lodging in the licenced premises.

(2) Except in the case mentioned in subsection (1) no licensee shall recover money owing or any other thing on account of liquor sold on credit to a person for consumption on the licenced premises.

(3) No licensee shall recover any money from or institute any legal proceedings against a person on account of liquor sold by him on credit to the person for consumption off the licenced premises unless the action is instituted for the recovery of the money within two months from the end of the month in which the liability was incurred.

Supply of liquor to children prohibited

39. (1) No person shall sell, supply or deliver liquor to a person under the age of 18.
- (2) A licensee shall not permit a person under the age of 18 to consume liquor on the licenced premises.
- (3) A person under the age of 18 shall not purchase or attempt to purchase liquor.
- (4) No person shall purchase liquor for a person under the age of 18.
- (5) No person shall send a person under the age of 18 to purchase or collect liquor from, the licenced premises.
- (6) It is a defence in proceedings for an offence under subsection (1) if the defendant proves that-
- (a) he took reasonable measures to determine the age of the person; or

- (b) he had reasonable grounds for believing that the person was not less than 18 years of age.

Prohibited employment

40. (1) No licensee shall employ a person under the age of 18 in connection with the sale

of liquor or during the hours when liquor may be sold or supplied on the licensed premises.

(2) It is a defence in legal proceedings for an offence under subsection (1) if the defendant proves that -

- (a) he took reasonable measures to determine the age of the person; or
- (b) he had reasonable grounds for believing that the person was not less than 18 years of age.

Power to remove persons

41. (1) A licensee, his agent or employee may -

- (a) refuse to serve a person with liquor or admit him on the licensed premises; or
- (b) remove a person from the licensed premises,

if the person is drunk, violent, quarrelsome or disorderly or the presence of the person on the licensed premises would render the licensee to a penalty under this Act or any other law.

(2) A member of the police force may, on the request of the licensee, his agent or employee, remove or assist in the removal from those licensed premises of a person referred to in subsection (1) and may use such force as may be reasonably necessary for that purpose.

Provision of food

42. (1) No licensee other than a licensee of an off-sale liquor licence shall sell liquor unless he has available for sale, on the licensed premises at a place approved by the Board in relation to licensed premises, an adequate supply of food of standard and variety approved by the Board.

(2) A Licensee who contravenes sub-section (1) commits an offence and is liable on conviction to a fine of M 1,000 or imprisonment for one year or both.

General penalty

43. (1) A person who contravenes a provision of this Act of which no penalty is specially provided for, commits an offence and is liable on conviction to a fine of M600 or imprisonment for six months or both.

(2) Any liquor forfeited under this Act shall be sold and the proceeds of the sale paid into the Consolidated Fund or may be destroyed on the authority of the court which made the conviction.

PART IX - MISCELLANEOUS

Purchase of liquor by a licensee or permit holder

44. Notwithstanding any law to the contrary, a licensee may purchase all liquor except beer from outside Lesotho.

Regulations

45. The Minister may make regulations generally for giving effect to provisions of this Act.

Transitional

46. All liquor licences issued under the repealed Act shall continue to be valid until 30 June 1998.

Repeal

47. The Liquor Licensing Act No. 16 of 1976 is repealed.

SCHEDULE 1

MINIMUM REQUIREMENTS FOR A TAVERN

Building or structure

1. The building shall be structurally safe and in good state of physical and decorative repair, both internally and externally and shall have a sitting room, storage room and toilet facilities.
2. At least one room shall be provided for a tavern.
3. The ceiling shall be light-coloured smooth anti-condensation and easy to clean. If the roofing is thatched the roofing shall be of good finish.
4. Its walls shall be painted with impervious, washable and light-coloured paint.
5. The floor shall be durable non-slip surface, impervious and easy to clear.
6. Adequate sunlight and artificial lighting shall be provided.
7. Seating accommodation shall be of at least 15 people.
8. Chairs and tables shall be in good state of repair and well arranged.
9. The tavern shall have -
 - (a) a service counter with foot-rest;
 - (b) shelves of impervious material;
 - (c) water supply on the premises; and
 - (d) separate toilets for different sexes and a urinal in men's toilet.
10. The toilets shall be conveniently located, accessible and properly designed and respectively labelled male and female.
11. The staff shall be provided with protective clothing.
12. The staff shall be provided with valid health certificates, which shall be renewable after every six months,

General

13. Suitable and approved First Aid Kit shall be provided, on the premises.
14. Surroundings shall be kept clean at all times and in good repair.
15. The premises shall be fenced.

MINIMUM REQUIREMENTS FOR AN OFF-SALE

Building or structure

1. The building shall be structurally safe and in good state of physical and decorative repair, both internally and externally.
2. At least two rooms shall be provided one of which shall be a service room and the other a storage room.
3. There shall be at least one toilet for staff and a storage room.

Service room

4. The service room shall have a ceiling and to be painted with a smooth and light coloured paint.
5. The walls shall be smooth and painted with impervious washable and light coloured paint.
6. Adequate natural and mechanical ventilation shall be provided.
7. The floor shall be durable non-slip surface, impervious and easy to clean.
8. The shelves shall be uncracked wood and stainless steel material.
9. A service counter shall be provided.
10. Refrigeration shall be adequate.

Storage room

11. The storage room shall have a ceiling light coloured, smooth anticondensation and easy to clean.

12. Else walls shall be smooth and impervious washable and light-coloured paint.
13. The floors shall be of impervious material.
14. A cold room shall be provided in all the urban areas.
15. Adequate natural and mechanical lighting and ventilation shall be provided.

MINIMUM REQUIREMENTS FOR A DISCOIHE'QUE OR NIGHT CLUB

Building or structure

lie building shall be structurally safe and in good state of physical and decorative repair, both internally and externally and shall have a kitchenette, dancing hall, storage room, seating accommodation, dancing floor, separate toilet facilities for males and *females*, disco jockeys operating platform, parking place, adequate natural and medical ventilation, discotheque lighting, exits and security.

Kitchenette

2. The kitchenette shall be spacious and built in such away as to provide enough ventilation and sunlight and shall have a ceiling.
3. The ceiling shall be light-coloured, smooth, anti-condensation and easy to clean
4. The walls shall be smooth and painted wilt impervious washable and light-coloured paint.
5. The floor shall he of impervious material.
6. The kitchenette shall have two sinks with cold and hot running water.