

eSwatini

Liquor Licences Act, 1964

Act 30 of 1964

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1964/30/eng@1998-12-01

There may have been updates since this file was created.

PDF created on 21 February 2024 at 16:45.

Collection last checked for updates: 1 December 1998.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Liquor Licences Act, 1964
Contents

1. Short title 1

2. Interpretation 1

3. The authority to grant, etc., licences and its powers [Schedule] 4

4. Period of licence 5

5. Not applicable to Government training institute 5

6. Establishment of Liquor Licensing Boards 5

7. Disqualification for membership of Board 6

8. Sitting of Boards 6

9. Special meetings of Boards 7

10. Functions of Board 7

11. Procedure of Board 8

11bis. Appeals 9

12. Review of Board's proceedings 9

13. Restriction on civil liability 10

14. Applications for licence 10

15. Objections 11

16. Interim applications 11

17. Report on application 11

18. Report by medical officer 12

19. Refusal to renew 12

20. Suitability of premises 13

21. Dealing without licence 13

22. Breach of terms of licence 14

23. Prohibition of employment of certain persons 15

24. Search and seizure 15

25. Posting of intemperates 16

26. Right of ejectment 16

27. Miscellaneous offences 17

28. Forfeiture of licences 18

29. Evidence and proof 18

30. Forfeitures 19

31. Sales by sheriff or messenger 19

32. Manufacturer of liquor 19

33. Requirements in respect of certain classes of spirits 20

34. Prohibition on use of certain names or description for brandies	20
35. Prohibition on addition of unauthorized substances to certain articles	20
36. Alcoholic strength of certain potable spirits	20
37. Labelling of brandy, whisky, rum, etc.	20
38. Labelling of mixed spirits	21
39. Labelling of rectified spirit and certain other spirits	21
40. Colouring, flavouring or adulteration of rum	21
41. Prohibition on sale of compounded gin	21
42. Savings as to reduction of strength and flavouring and colouring of spirits	21
43. Offences by manufacturers or distillers	22
44. Limitation of licence-holder's liability in respect of property of customers	22
45. Management and responsibility	22
46. Restriction on credit sales of liquor	23
47. Closure of licensed premises	24
48. Contracts	24
49. Regulations	24
50. Repeal	25
Schedule (Under section 3 of the Act)	26

eSwatini

Liquor Licences Act, 1964

Act 30 of 1964

Commenced on 1 September 1964

[This is the version of this document at 1 December 1998.]

An Act to provide for legislation as to liquor licensing and incidental or connected matters.

1. Short title

This Act may be cited as the Liquor Licences Act, 1964.

2. Interpretation

In this Act, unless the context otherwise requires—

"**African beer**" means—

- (a) the drink commonly known as *utshwala* and brewed solely from sorghum or maize or a mixture of both, and water;
- (b) the beverages known as *buganu* and *injemane*; and
- (c) a beverage of a proprietary nature—
 - (i) made in accordance with the directions issued by the proprietor, and
 - (ii) declared by the Minister, by notice published in the *Gazette*, to be African beer;

but does not include—

- (d) African beer to which has been added sugar, honey, syrup or other substance likely to induce or increase fermentation;
- (e) the concoctions commonly known as *sigomfane* or *sikokiyane* or *keyeyi*, *quedviki*, *qali*, *ishimiyane*, *hemen*, *mankantshana* and *babutini* and such concoctions as the Minister may in his discretion, specify by notice published in the *Gazette*;
- (f) a beverage, other than *utshwala*, containing more than three per centum by volume of alcohol;

"**authority**" means authority, under [section 3](#), for the grant, renewal, removal, or transfer of a licence;

"**bar**" in relation to licensed premises, means that part of those premises in which liquor is exposed for sale, and there is a counter where liquor is served for consumption on those premises;

"**blended whisky**" means whisky containing not less than twenty-five per cent of malt whisky and not less than thirty parts by weight of compound ethers, calculated as ethyl acetate, point eight five parts of furfural, and one hundred and twenty parts of higher alcohols calculated as amyl alcohol, per one hundred thousand parts of alcohol;

[Added A.4/1972]

"**Board**" means a Liquor Licensing Board established under [section 6](#);

"*bona fide* traveller" means, in the case of an hotel situated—

- (a) in an urban area, a person who has travelled from beyond the boundary of such area; and
- (b) outside an urban area, a person who has travelled a distance of not less than five miles; and

who is not resident within five miles of the hotel in question;

"**brandy**" means a distillate of an alcoholic strength not less than forty-three per cent of alcohol by volume or lower than twenty-five degrees under proof, resulting from the distillation solely of wine;

[Added A.4/1972]

"**cane spirit**" means the rectified spirit of an alcoholic strength not lower than twenty-five degrees under proof, resulting from the distillation solely of the fermented juice of sugar cane or of molasses;

[Added A.4/1972]

"**Chairman**" means the Chairman of the Board;

"**compound gin**" means grain or other spirits of an alcoholic strength not lower than twenty-five degrees under proof, flavoured after distillation by means of oils or essences in such a manner as to resemble gin;

[Added A.4/1972]

"**clerk**"

[Definition of "clerk" deleted A.17/1981]

"**excise officer**" has the meaning of "officer" in the Customs and Excise Act, [No. 21 of 1971](#);

"**forfeited**" means forfeited to the government;

"**fortified wine**" means unfermented, fermented or concentrated juice of fresh grapes (including vermouth and aromatic wines) or of dried vine products, to which a wine brandy or grape brandy has been added;

"**gin**" means a distillate of an alcoholic strength not lower than twenty-five degrees under proof resulting from the distillation of a fermented mash of cereal grain or the re-distillation of any class of spirits with juniper berries, either with or without the addition of common salt and harmless aromatic plants and seeds;

[added A.4/1972]

"**grape brandy**" means a distillate of an alcoholic strength not lower than twenty-five degrees under proof, resulting from the distillation solely of grape juice together with husks;

[Added A.4/1972]

"**holder of a licence**" or "holder of the licence" means person licensed;

"**intemperate**" means person the subject of an order made under [section 25](#);

"**licence**" or "liquor licence" means a licence granted under this Act, and "licensed" has a corresponding meaning;

"**licensed hours**" means the hours prescribed for the sale or supply of liquor;

"**licensed premises**" means premises the subject of a licence;

"**liquor**" means spirits, including methylated spirits, wine, ale, beer, porter, cider, perry, African beer, or other fermented, distilled, spirituous or malt liquor of an intoxicating nature, or a drink with which such a liquor is mixed;

"**liqueur**" means a beverage of an alcoholic strength not lower than thirty per cent of alcohol by volume and which contains not less than thirty grammes of sugar per litre, produced either—

- (a) by maceration in rectified spirits or in brandy, or fresh or dried fruit or peels of aromatic plants, leaves, herbs, roots or seeds, to which has been added subsequently a syrup made of pure cane sugar or honey; or

- (b) by re-distillation of a mascerated extract, prepared as described in paragraph (a), to the resulting distillate of which a syrup made of pure cane sugar or honey has been added;

[Added A.4/1972]

"**malt liquor**" means ale, beer, porter or other malt liquor of an intoxicating nature;

"**malt whisky**" means whisky derived solely from malt by pot still distillation, and containing at least two of the following constituents in proportions not lower than those specified below, namely, compound ethers calculated as ethyl acetate, not less than forty-five parts by weight, furfural not less than three "point" five parts and higher alcohols (calculated as amyl alcohol) not less than one hundred and eighty parts per one hundred thousand parts of alcohol, and, where the quantity of furfural falls below the quantities specified herein, containing such a quantity thereof as is not less than one-eightieth of the quantity of higher alcohols, and, where the quantity of furfural is not less than the quantity so specified, containing a quantity of higher alcohols not less than forty times the quantity of furfural;

[Added A.4/1972]

"**Minister**" means the Minister for Home Affairs;

[Amended A. 17/1981]

"**mixed spirits**" means a mixture (other than whisky, malt whisky or blended whisky to which sherry wine has been added in terms of section 42(g) of an alcoholic strength not lower than twenty-five degrees under proof, of two or more kinds of spirituous beverages or liquors derived by distillation from different sources;

[Added A.4/1972]

"**objector**" means person who has lodged an objection in accordance with [section 15](#);

"**officer of customs**" has the same meaning as in the Customs and Excise Act, [No. 21 of 1971](#);

"**orange fermented beverage**" means a beverage of an alcoholic strength not lower than two point five per cent and not higher than fourteen per cent of alcohol by volume and a total residual sugar content (expressed as dextrose) of not higher than thirty-five grammes per litre and which shall have been obtained solely by the alcoholic fermentation of the juice of fresh oranges or the diluted concentrate of such juice or of such juice together with such diluted concentrate;

[Added A.4/1972]

"**proof**" means the strength of proof after distillation as ascertained by Sikes' hydrometer;

[Added A.4/1972]

"**rectified spirit**" means a purified spirit of an alcoholic strength not lower than twenty-five degrees under proof, obtained and purified by distillation with a rectifying or fractionating column;

[Added A.4/1972]

"**removal**" in relation to a licence, means removal from the licensed premises to other premises;

"**rum**" means an unrectified distillate of an alcoholic strength not lower than twenty-five degrees under proof, and not higher than forty-five degrees over proof, resulting from the distillation of the fermented juice of sugar cane or of molasses, and whereof the volatile constituents, other than water, are derived solely from those materials, and include not less than one hundred and twenty parts of compound ethers, calculated as ethyl acetate, per hundred thousand parts of alcohol;

[Added A.4/1972]

"**Secretary**" means the Secretary to a Board;

[Added A.17/1981]

"**spirit aperitif**" means rectified spirit or brandy to which herbs or any natural extract of herbs has been added, with or without the addition of any other natural aromatic flavouring substances or of cane sugar, and which has an alcoholic strength not lower than twenty-four per cent of alcohol by volume, and the taste, aroma and other qualities which are generally characteristic of spirit aperitif;

[Added A.4/1972]

"**spirit cocktail**" means rectified spirit or brandy to which egg and any natural aromatic flavouring substances have been added, with or without the addition of milk or of cane sugar, and which has an alcoholic strength not lower than twenty-four per cent of alcohol by volume, and the taste, aroma and other qualities which are generally characteristic of egg cocktail;

[Added A.4/1972]

"**spirits**" includes all descriptions of brandy, orange fermented beverage, whisky, liqueur, rum, cane spirit, vodka, mixed spirits, fortified wine, wine spirit, rectified spirit, spirit aperitif, spirit cocktail, or gin, or any other beverage prescribed by the Minister by notice in the *Gazette* to be included in this definition;

[Added A.4/1972]

"**still**" means an apparatus capable of being used in the distillation of liquor, by which volatile matter is separated by means of heat from the substance in which it is contained and is then recondensed into liquid form, or a part of such an apparatus;

"**unfortified wine**" means unfermented, fermented or concentrated juice of fresh grapes (including vermouth and aromatic wines) or of dried vine products, to which a wine brandy or grape brandy has not been added or, if added for the purpose of preservation, if the alcoholic strength of that wine is not thereby increased by more than one degree proof strength per annum, per imperial gallon;

"**vodka**" means rectified spirit, whether or not treated after distillation with charcoal, which has no distinctive aroma, taste or colour and has an alcoholic strength not lower than twenty-five degrees under proof;

[Added A.4/1972]

"**whisky**" means spirituous liquor of an alcoholic strength not lower than twenty-five degrees under proof, derived from grain by fermentation and distillation, and whereof the volatile constituents, other than water, are derived solely from grain;

[Added A.4/1972]

"**wine**" means fortified or unfortified wine;

"**wine brandy (cognac type)**" means a distillate of an alcoholic strength not lower than twenty-five degrees under proof resulting solely from the distillation of wine distilled at not higher than twenty-two degrees over proof, and whereof the volatile constituents, other than water, are derived from such wine and include not less than one hundred and twenty-five parts of higher alcohols calculated as amyl alcohol and three hundred parts of total secondary constituents per hundred thousand parts of alcohol.

[Added A.4/1972]

3. The authority to grant, etc., licences and its powers [Schedule]

- (1) A Board may in accordance with this Act grant, renew, remove or transfer the types of licence referred to in column two of the Schedule and appearing immediately opposite to the numbers 1 to 8, inclusive, shown in column one thereof.
- (2) The Minister may—
 - (a) notwithstanding anything in this Act, grant an exclusive licence of a type referred to in the Schedule by the numbers 9 (brewer's licence) and 10 (African beer manufacturing and wholesale licence) to any person for such period not exceeding ten years as he may deem fit;

- (b) grant to any person a licence of a type referred to in paragraph (a) or of a type referred to in the Schedule by the numbers 11 (canteen licence) and 12 (employer's licence) for a period referred to in [section 4](#);
- (c) renew, for a period referred to in [section 4](#) or authorise the removal or transfer of any of the types of licences referred to in paragraphs (a) or (b):

Provided that during the currency of an exclusive licence issued under this subsection, no licence of the same type may be granted.

[Amended A.8/1967; A.17/1981]

- (3) A Regional Administrator may, in respect of his region, grant, renew, remove or transfer the types of licence similarly referred to by the numbers 13 to 15, inclusive.
- (4) The Minister or, as the case may be, the Regional Administrator may grant or refuse an application for a type of licence grantable by him, or the renewal or transfer or removal thereof and his decision shall be final.
- (5) The Minister may on written application to him and in such form and subject to such conditions as he may impose, grant, renew, remove or transfer a spirits manufacturer's licence.

[Added A.4/1972]

4. Period of licence

- (1) A yearly licence shall expire on the thirty-first day of December of the year for which it is issued or renewed.
- (2) A half-yearly licence may be issued after the thirtieth day of June in a year with effect until and including the thirty-first day of December in the same year, and at half the charges for a yearly licence.
- (3) The holder of a licence granted under the repealed Liquor Licence Proclamation shall in all respects be subject to this Act, and any special condition imposed on such licence, be deemed to have been imposed under this Act in so far as such condition would be lawful under this Act.
- (4) This section shall be without prejudice to the licence obtainable under [section 19](#).

5. Not applicable to Government training institute

This Act shall not apply to any hotel or bottle store attached thereto if the Minister has issued a certificate that such hotel or bottle store is being conducted as a *bona fide* training institute by the Government:

Provided that sections [22](#), [23](#), [24](#), [25](#), [26](#), [27](#), [29\(5\)](#), [32](#), [45\(5\)](#) and (7), [46](#), [47](#) and any regulations made by the Minister in terms of [section 49](#) relating to the type of liquor to be sold and supplied and the imposition of licensing hours shall *mutatis mutandis* apply in the same way as if the premises were licensed in terms of this Act: and,

Provided further that the Minister shall designate a public officer to conduct such hotel or bottle store who shall for the purposes of this proviso be regarded as the holder of a licence under this Act.

[Added A.6/1972]

6. Establishment of Liquor Licensing Boards

- (1) Liquor Licensing Boards for the determination and consideration of applications for, or relating to, the grant or renewal or transfer or removal of any such licence for the sale of intoxicating liquor referred to in [section 3\(1\)](#) and for such other purposes as may be prescribed are hereby constituted in and for each region.

- (2) Subject to [section 7](#), each board shall consist of—
- (a) the Chairman, who shall be a public officer designated for the purpose by the Minister;
 - (b) the Regional Administrator of the region concerned;
 - (c) the public officer serving as tourist officer in the government and a public officer designated by the Principal Secretary, Ministry of Economic Planning and Development;
 - (d) such other persons, not exceeding three, who reside or carry on business in the region concerned as the Minister may by notice in the *Gazette* appoint for each region and who are able and willing to serve as members thereof.

[Amended A.14/1971]

- (3) For the dispatch of business, the Chairman and two other members of a Board shall constitute a quorum.
- (4) Where a quorum is not present at a sitting of a Board, the sitting shall be adjourned from day to day until a quorum can be present to hold the sitting.
- (5) The decision of the majority of the members present shall be the decision of a Board and, in the case of an equality of votes, the person presiding shall have the casting as well as a deliberative vote.
- (6) The Minister shall appoint an officer to perform the duties of clerk to the Board.

[Amended L.N. 38(6)/1967]

7. Disqualification for membership of Board

- (1) A person shall be disqualified from becoming a member of a Board or, if he is a member of a Board, shall cease to be a member of a Board, if he—
- (a) is an applicant for, or the holder of, a liquor licence, or
 - (b) subject to subsection (2), has a financial interest, either direct or indirect, in any licensed premises situated in Swaziland or in an application for a licence, or
 - (c) is an unrehabilitated insolvent, or
 - (d) is a person who, within or without Swaziland, has been sentenced by a court in respect of an offence involving, in the opinion of the Minister, serious moral turpitude and in respect of which he has not received a free pardon.
- (2) The Minister may direct that subsection (1)(b) shall not apply to particular persons.
- (3) If a member of the Board is related, within the first degree of consanguinity or affinity, to an applicant for a licence the member shall, for the purposes of the application, cease to be a member of the Board unless the Minister otherwise directs.

8. Sitting of Boards

- (1) A Board shall sit in public at such times and places as the Chairman may, by notice published in the *Gazette*, fix for the consideration and determination of applications, in accordance with this Act, for the grant, renewal, transfer or removal of liquor licences or approval of alterations to licensed premises.

[Amended L.N. 38(6)/1967]

- (2) At least one meeting of a Board, to be known as the annual meeting, shall be held during November or December of each year and, provided that there is a matter for consideration by it, a further meeting, to be known as the mid-year meeting, shall be held during May or June of each year.

- (3) A Board may sit at such place within Swaziland, and adjourn a sitting to such time or place, as it considers expedient.

9. Special meetings of Boards

- (1) A special meeting of a Board may, subject to this Act, be convened by the Chairman in any month other than the months of May, June, November and December for the purpose of considering an application for the granting of a provisional authority in terms of [section 10\(5\)](#).
- (2) Such meeting shall not be convened by the Chairman unless he is satisfied that it would cause undue hardship or prejudice to the applicant if he were to wait until the annual or mid-year meeting of a Board, and that for reasons beyond his control such applicant was unable to make the application at an ordinary meeting of a Board held immediately prior to the date of his application.
- (3) Any person desiring the Chairman to exercise his discretion in terms of subsection (2) shall make a written application addressed to the Chairman, accompanied by payment of a fee of R100.00:
Provided that in the event of the Chairman refusing to grant such application, seventy-five per cent of such fee shall be refunded to the applicant.
- (4) The Chairman may at any stage call upon the applicant to deliver to him an affidavit deposed to by him or any other person in support of the application referred to in subsection (3), and may require the applicant to appear before him to make oral representations or give evidence under oath.
- (5) Within ten days from the date of the granting of an application for a special meeting, the applicant shall apply to the Board for such provisional authority and sections [14](#) and [15](#) shall *mutatis mutandis* apply to such application.

[Added A.2/1972]

10. Functions of Board

- (1) A Board may grant or refuse—
 - (a) an application for the grant or renewal of a licence grantable by the Board; or
 - (b) the transfer or removal of such licence (including the confirmation or otherwise of the exercise by the Chairman of his powers under [section 16\(1\)](#));
 - (c) an application made under [section 20\(7\)](#) for the approval of a Board of a proposed alteration to premises or in the use of a part thereof.
- (2) In considering an application under this section a Board shall, in particular, subject to [section 20](#), have regard to the following matters—
 - (a) the character, financial standing and place of residence of the applicant;
 - (b) the public need for the licence in the locality or generally in Swaziland having regard to—
 - (i) the number of licensed premises, and
 - (ii) the provision, generally, of a high standard of hotel accommodation, service and meals; and
 - (c) the encouragement of tourists.
- (3) Upon determination of the application, a Board shall communicate its decision to the Regional Administrator of the region concerned and such communication shall be the authority for the issuance of the requisite licence.
- (4) If after lodgment of an application for the renewal of a licence in terms of [section 14](#), and prior to the date fixed for consideration of the application, a person sells or otherwise disposes of the

business in respect of which the application is made, the Board may grant the renewal of the licence in respect of such business to the person to whom it has been sold, or otherwise disposed of.

- (5) If an applicant has not erected the premises for which the licence is applied at the date of hearing of his application, a Board shall, if it approves the application, grant provisional authority for the issuance of the requisite licence, which the Regional Administrator concerned shall not issue until such time as he is satisfied that the applicant has—
 - (a) completed the building according to his plan approved by the Board; and
 - (b) complied with any conditions or restrictions that may have been imposed by the Board.
- (6) If a Board refuses to grant, renew, remove or transfer a licence, it shall give the reason for the refusal which shall be in writing if so required by the applicant or any objector.
- (7) Subject to any regulations, the Board may on application to it for the grant, renewal, removal or transfer of a licence, impose or confer upon the holder thereof such conditions and privileges as appear suitable.
- (8) Any conditions and privileges imposed or conferred shall be endorsed on the licence and they shall be deemed to form part of the licence.
- (9) Failure to endorse a condition or privilege upon a licence shall not relieve the holder thereof from any kind of obligation in respect of the condition or privilege.
- (10) Notwithstanding this Act or any other law, the Minister may, for the purpose of controlling the consumption of liquor, issue directions, including directions to revoke a licence already granted on the coming into operation of this Act, to any Board and the Board shall comply therewith.

[Added A.17/1981; amended A.6/1982]

- (11) Where a licence is revoked under subsection (10), the Board shall issue a notice of revocation of six months or more as the Minister may determine to a holder of a licence and such holder shall be entitled to a refund of any fee for the unexpired period of the licence from the date specified in the notice for the expiry of such licence.

[Added A.6/1982]

11. Procedure of Board

- (1) Subject to subsection (3), on the instructions of the Chairman the Secretary shall by written notice under his hand require the attendance before the Board of any person—
 - (a) who has made application for a new licence or the renewal, transfer or removal of a licence, or,
 - (b) in the case of the absence of the holder of a licence, who, in the absence, is charged with the conduct of the business carried on under that licence, or,
 - (c) who, in the opinion of the Chairman, at his own instance, or at the instance of an applicant or an objector, can testify as to any matter the Board has to determine.

[Amended A.17/1981]

- (2) The Secretary may on the instructions of the Chairman by written notice require that such applicant or person produce any book, paper or other document in his possession or under his control, and which may be relevant to the matter before a Board.

[Amended A.17/1981]

- (3) If an application is made for the renewal of a licence in accordance with [section 14](#) and no objection to the renewal is lodged in accordance with [section 15](#), the Chairman may, in his discretion, grant the application, if he is satisfied as to those matters which a Board in dealing with such an application has to take into consideration, or may refer the application to the Board.

- (4) Any person who refuses or fails without good cause to attend and give evidence before a Board at the time and place specified in a notice given under this section, or to produce a book, paper or other document, he has been required by such notice to produce, shall be guilty of an offence and liable, on conviction, to a fine not exceeding twenty emalangeni or, in default of payment thereof, imprisonment not exceeding six weeks.
- (5) If a Board considers it necessary to take evidence respecting a question to be determined by it, such evidence may, in the discretion of the Board, be given on oath (which oath the person presiding is hereby authorised to administer) and shall be filed of record in the office of the Chairman.
- (6) A Board may of its own motion take notice of a matter or thing which in the opinion of its members constitutes an objection to the granting, renewal or transfer of a licence although no person has made any objection to it:

Provided that it shall inform the applicant of such matter or thing, and, should the applicant so request, adjourn, the further consideration of the application for such reasonable period as it may consider suitable in order that the applicant may have an opportunity of replying to the objection.
- (7) An applicant or objector may as of right, appear in person before a Board or be represented by a person authorised in writing by him, and call evidence in support of his application or objection.
- (8) Except where otherwise specially provided in this Act, the Chairman shall determine the procedure to be adopted in the case of a sitting to consider applications.

11bis Appeals

An applicant or objector aggrieved by the decision of a Board in respect of the grant of, or refusal to grant, renew, remove or transfer a licence or in respect of any conditions or privileges attached to a licence may, within twenty-one days of such decision, appeal to the Minister whose decision shall be final and shall not be questioned in any court.

[Added A.17/1981]

12. Review of Board's proceedings

- (1) On the petition of an applicant or objector, the High Court may review a proceeding of a Board if it appears to it that—
 - (a) in the proceedings in question the Board exceeded its powers, or failed to take into consideration matters which it was its duty to consider or otherwise failed to perform a duty, or exercised its powers in an arbitrary, *mala fide* or grossly unreasonable manner, or a point of law arose which such Court should determine; or
 - (b) a person, who was disqualified from being a member, or, if a member disqualified from taking part in the proceedings in question, took part in such proceedings.
- (2) Subject to subsection (3), if, upon the consideration on review of a proceeding of the Board, the Court finds good grounds for the review, it may—
 - (a) set aside the proceedings in question; and
 - (b) make such order as it considers fit, including an order that a special meeting of the Board be convened for the rehearing in accordance with the directions of the Court or reconsideration of the matter or the taking of further evidence.
- (3) A proceeding shall not be set aside—
 - (a) by reason of a formal or technical defect in a proceeding not, in the opinion, of the Court, resulting in substantial injustice; or
 - (b) in any other case, unless the Court is satisfied that the matter proved caused, or was calculated to cause, substantial prejudice to the petitioner.

- (4) Unless substantial prejudice has been caused, the validity of a licence granted by a Board shall not be affected merely by reason of the fact that a notice required by this Act was not duly posted, published or sent.
- (5) There shall be no appeal from a decision of the High Court under this section.

[Amended A.17/1981]

13. Restriction on civil liability

A member of a Board shall not be sued in law for anything done, or omitted to be done, in the *bona fide* discharge of his duties under this Act.

14. Applications for licence

- (1) With respect to a licence prescribed to be grantable by the Board, any individual desiring to obtain a new licence, or the renewal of an existing licence, or the transfer of an existing licence from the holder thereof, or the removal of an existing licence from the licensed premises to other premises, shall on or before the first day of October, if the application is to be heard at an annual meeting, or the first day of April, if the application is to be heard at a mid-year meeting, lodge a written application with the Chairman of the Board at the office of the Minister for Home Affairs and copies thereof with the Commissioner of Police and the Senior Medical Officer of Health.
- (2) The application shall disclose—
 - (a) the full name and nationality of the applicant,
 - (b) the full name and address of the owner of the premises,
 - (c) the full name and nationality of the responsible manager if he is not the applicant,
 - (d) the name of the region and place and, in the case of an urban area, the name of the street and number of the lot in respect of which the business is desired to be carried on,
 - (e) the nature of the licence desired, and
 - (f) any privilege, as to hours, desired with the licence.
- (3) The application shall be supported—
 - (a) in the case of a new licence, or of a removal of a licence, by a plan drawn to scale of the premises for which the licence is applied,
 - (b) in the case of the renewal of a licence, by a plan drawn to scale showing any structural alteration to the premises, and any alteration in the use of any parts thereof, since the issuance of the previous licence,
 - (c) in the case of any kind of new club licence, but subject to any regulations, by a copy of the rules of the club certified by the secretary thereof, and, in the case of a renewal only, such rules as have been added, altered or cancelled since the grant of the licence, and,
 - (d) in all cases, by a notification of the place or places at which liquor is to be stored.
- (4) The application shall also be supported by—
 - (a) an affidavit of the applicant fully setting forth—
 - (i) particulars of any tie by which the applicant is, or is proposed to be, bound in respect of the business conducted under the licence;
 - (ii) the name and address of a person, other than the applicant, having, or to whom it is proposed to grant, a financial interest in the business, and the nature and extent of

such interest, or that no other person than himself has, or is to receive, a financial interest, if that be the case; and,

- (iii) in the case of any other club licence, the number of members belonging to the club at the time of the application;
- (b) a true copy of any document by which the agreement respecting any such tie or financial interest was concluded; and
- (c) a true copy of any lease or contract under which the premises are held or are to be held, on which the licensed business is, or is proposed, to be carried on:

Provided that this paragraph shall not apply to an application for a renewal of a licence if the applicant, with his application, submits an affidavit setting forth that the particulars previously supplied in terms thereof remain unchanged.

- (5) Any application received after the first day of October, and before the first day of November, if it is to be heard at the annual meeting, or the first day of April, and before the first day of May, if it is to be heard at the mid-year meeting, may, in the discretion of the Chairman, receive consideration subject to the prior payment of a penalty of a fee of four emalangeni or such other amount in lieu thereof as may be prescribed.
- (6) Subject to subsection (7), at least twenty-one days before the meeting of the Board, the clerk shall at the cost of the Government, advertise all applications to be heard by the Board in a newspaper circulating in Swaziland, and cause a copy of such advertisement to be posted at the office of the Regional Administrator in respect of which the application is made.
- (7) Any application under [section 16](#) shall be advertised by the clerk at the expense of the applicant in the same manner as provided in subsection (6).

15. Objections

- (1) A person may, either individually or jointly with others, object in writing to the granting, renewal or transfer of a licence prescribed to be grantable by a Board.
- (2) At the request of the applicant, a Board may summon an objector to attend before it for the purpose of being examined on oath as to the grounds of the objection.
- (3) An objection to the granting, renewal or transfer of a licence shall be lodged with the clerk and a copy of his objection sent by registered post to the applicant at least ten days before the sitting of a Board.

16. Interim applications

- (1) In respect of licences prescribed to be grantable by a Board, and subject to subsection (2), the Chairman may, at any time consider an application for the transfer or removal of a licence, and, subject to the confirmation of the Board at its next meeting, grant or refuse the transfer or removal applied for.
- (2) If the Chairman considers it expedient to do so, he may direct that the application be put before the Board for consideration.

17. Report on application

- (1) The Commissioner of Police, or such officer as he may authorise in writing, shall, not less than fourteen days before the sitting of a Board furnish the clerk with a written report on each application for such licences as may be prescribed for the purpose, and forward a copy thereof to the Regional Administrator of the region concerned, and the applicant.
- (2) The report shall contain the following particulars—
 - (a) a description of the house, premises and furniture in question;

- (b) a statement as to whether the applicant is a fit and proper person to have the licence applied for, and known to be of good character and repute;
 - (c) a statement as to whether the applicant appears to be, or not to be, the true owner of the business or the premises proposed to be licensed;
 - (d) if the application is for a renewal by a person having held the licence during the whole or a part of the preceding year, a statement as to the manner in which the house has been conducted during such year or part thereof;
 - (e) whether any convictions have been recorded against the person holding the licence, or against the responsible manager if he is not the person holding the licence and, if so, particulars of each conviction;
 - (f) a statement as to the character of the person frequenting the house; and
 - (g) the facts, in detail, upon which are based any conclusions or expressions of opinion.
- (3) If the officer submitting the report is unable to supply any of such particulars, he shall specifically state the reason for his inability in his report.

18. Report by medical officer

- (1) The Senior Medical Officer of Health, or such officer being a medical officer or health inspector as he may authorise in writing, shall, not less than fourteen days before the sitting of a Board—
- (a) furnish the clerk with a written report on each application for such licences as may be prescribed for the purpose, and forward a copy thereof to the Regional Administrator of the region concerned, and the applicant.
- (2) The report shall contain the following particulars—
- (a) a description of the condition of the house, premises, furniture, crockery and cutlery, in question;
 - (b) an assessment of the adequacy, or otherwise, of the facilities for persons resorting to the house and premises, and employees of the establishment;
 - (c) a list of improvements or repairs necessary to maintain the premises, house, furniture, crockery or cutlery at a modern public health standard; and,
 - (d) if the application is for a renewal by a person having held the licence during the whole, or a part, of the preceding year, a statement, from the point of view of health and hygiene, as to the manner in which the house and premises have been conducted during such year or part thereof.
- (3) A Board, the Chairman, a Regional Administrator, a medical officer, or health inspector, acting under the authority of the Senior Medical Officer of Health, may at all reasonable times inspect licensed premises and premises the subject of an application for a licence, and the person in charge of the establishment shall afford him all reasonable facilities for inspection.

19. Refusal to renew

If a Board refuses the renewal of a licence prescribed to be grantable by it and held by any person, and the person has not, during the preceding twelve months, been convicted of an offence against this or any other law relating to the sale of liquor, he shall, on payment of the proportionate part of the cost of a licence such as has been held by him, be entitled to obtain a licence for a period of three months after the expiry of the licence the renewal of which has been refused.

20. Suitability of premises

- (1) Before granting an application for a licence or for the renewal of a licence, or for the removal of a licence to other premises, a Board shall satisfy itself that the premises in respect of which the application is made, or, as the case may be, to which the licence is to be removed, afford suitable and satisfactory accommodation for all purposes to which they may lawfully in terms of the licence be put.
- (2) A licence in respect of an hotel shall be granted only in respect of premises proved to the satisfaction of the Board to be provided with sufficient—
 - (a) accommodation of a reasonable standard for travellers,
 - (b) means of egress in case of fire,
 - (c) suitable sanitary arrangements, conveniences and bathroom accommodation,
 - (d) shelter for vehicles and motor conveyances, and
 - (e) suitable accommodation for employees accompanying travellers, and hotel staff living on the premises.
- (3) All kitchens, pantries, dining-rooms and other places where food is cooked, stored or served, and all bedrooms, bathrooms and lavatories of licensed premises, shall be kept clean and in a proper state of repair, and the grounds thereof shall be kept tidy.
- (4) A licence in respect of an hotel may be granted only in respect of premises in which rooms reserved for the sale of liquor are separated from any adjacent room in which other trade is carried on by a substantial wall or partition containing no door or other opening.
- (5) A licence in respect of an hotel may be granted in an urban area only in respect of premises having the bar or public entrance in or towards a public street or thoroughfare, and sufficient floor accommodation for the convenience of the public.
- (6) The holder of a licence shall not without the prior approval of a Board make or cause any structural alteration to the premises, and any alteration in the use of a part thereof to be made.
- (7) An application for approval of such alteration shall be supported by a plan, drawn to scale, indicating fully and clearly the proposed alteration.
- (8) If an application under subsection (7) cannot conveniently be made during a sitting of a Board in accordance with [section 8](#), the Chairman may, after consultation with the Regional Administrator of the region concerned, approve the proposed alteration.

21. Dealing without licence

- (1) Subject to subsection (2), a person who sells, or otherwise deals in, liquor without a licence shall be guilty of an offence and liable—
 - (a) on first conviction, to a fine not exceeding two hundred emalangeni or, in default of payment thereof, imprisonment not exceeding twelve months; and
 - (b) on second or subsequent conviction, to a fine not exceeding four hundred emalangeni or, in default of payment thereof, imprisonment not exceeding two years or both.
- (2) In the case of a duly approved renewal of a licence, subsection (1) shall not come into operation until the thirty-first day of January in the year following the expiry of the period for which a licence is taken out.
- (3) Upon conviction for an offence under subsection (1), all liquor found in the possession of the convicted person shall be, *ipso facto*, forfeited:

Provided that in the case of a person who has been duly authorised to obtain the renewal of a licence, but has omitted to do so immediately on expiry of his previous licence, the forfeiture of liquor shall be at the discretion of the court in which the conviction took place.

- (4) The fact that an unlicensed person—
- (a) has a notice or sign upon, or in the vicinity of, his premises purporting that he is licensed; or
 - (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 there sold or served for payment; or
 - (c) keeps liquor concealed on those premises or more liquor than is reasonably required for the persons residing in them or for *bona fide* entertainment,
- shall be deemed to be *prima facie* evidence of a contravention of subsection (1).
- (5) Notwithstanding anything in this section to the contrary, the holder of a general dealer's licence, issued under a law relating to trading licences and endorsed in accordance with subsection (6), may sell methylated spirits to—
- (a) a person other than an intemperate,
 - (b) an intemperate, if such person is in possession of a permit, which a Regional Administrator may, in his discretion grant in a form approved by him.
- (6) A Regional Administrator may in his discretion endorse a general dealer's licence to the effect that the person to whom it is issued is permitted to sell methylated spirits and may at any time cancel such endorsement.

22. Breach of terms of licence

- (1) The holder of a licence who sells or otherwise deals in liquor at a place other than the place at which he is authorised by the licence so to deal, or during a time when he is not authorised so to deal, or in violation of any other condition of his licence, shall be guilty of an offence and liable, on conviction to a fine not exceeding one hundred emalangeneni or, in default of payment thereof, imprisonment not exceeding six months.
- (2) Subject to subsection (3), the holder of a licence shall be guilty of an offence and liable on conviction to the penalties mentioned in subsection (1), if he stores liquor, or sells or otherwise deals in liquor—
- (a) in a room or place in which he or another person conducts a part of a general trader's, general dealer's, butcher's, baker's, greengrocer's, or other, business; or
 - (b) in a room or place not separated by a substantial wall or partition, without door or other opening, from which such business is conducted.
- (3) Nothing in this section shall prevent the sale of malt liquor and unfortified wine from the store of a general dealer licensed for the sale, or, if the sale would be otherwise lawful, the sale in a bar, or other place in which is authorised the sale of liquor, of mineral waters, tobacco, pipes, cigars, cigarettes and matches.
- (4) The holder of a licence in respect of an hotel who, after sunset and during the hours after which the sale of liquor to the general public is allowed, fails to have a lamp affixed and kept burning over the front entrance to the bar, and in such a position as to light up the front entrance to the bar, shall be guilty of an offence and liable on conviction to the penalties mentioned in subsection (1).

[Original section 22 repealed A.15/1971]

23. Prohibition of employment of certain persons

- (1) The holder of a licence shall not in a place where liquor is sold or stored employ—
 - (a) an intemperate,
 - (b) a person who, to the knowledge of the holder of the licence has during the preceding five years been convicted in Swaziland of contravening a law relating to the selling of liquor without a licence, or the selling, giving, or otherwise supplying or delivering of liquor to an intemperate; or
 - (c) a person under eighteen years of age.
- (2) The holder of a licence who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangeni or, in default of payment thereof, imprisonment not exceeding six months.

24. Search and seizure

- (1) Any excise officer, police officer of or above the rank of sub-inspector, or other police officer authorised for such purpose by a police officer of or above the rank of assistant superintendent, or a Regional Administrator, or other person authorised for the purpose by the Minister, may, at any reasonable time enter on any licensed premises, examine every room or part of those premises, and take stock of any liquor found there.
- (2) Any excise officer, police officer, or Regional Administrator, or other person authorised for the purpose by the Minister, may, at all times on proof or reasonable suspicion of the purchase, holding, conveyance, sale or supply of liquor, or of the possession of a still, in contravention of this Act—
 - (a) enter on any premises and do all things necessary to make search for such liquor, or money used in the purchase of such liquor, or such still, or any other thing which may be material to the charge to be preferred, and such liquor, still, money or other thing may be seized by the officer conducting the search;
 - (b) search any package, or other thing on any train, wagon or other vehicle or being conveyed in any way from one place to another, for such liquor or still; and
 - (c) call upon a person reasonably suspected to be in unlawful possession of liquor or of a still to produce it, and, if he fails so to do, to search his person, clothing or other belongings.
- (3) If, in the course of a search made under this section, liquor or a still is found for which the permit required by law is not produced, the person authorised to search may seize and detain the liquor, all packages or other things in which it is contained, a wagon or other vehicle in which it is being conveyed, the still, any other things which may be material to the charge to be preferred, and if the person whose premises or other property searched is not the holder of a licence, all marked money, liquor bottles, corks, funnels, glasses, or other utensils, used in connection with the storage or sale or distillation of liquor found there.
- (4) In the event of a conviction following upon any search and seizure made under this section, any articles so seized may, in the discretion of the convicting officer, be declared forfeited.
- (5) A person obstructing another person in the execution of his duties under this section shall be guilty of an offence and liable on conviction to a fine not exceeding twenty emalangeni or, in default of payment thereof, imprisonment not exceeding six weeks.

25. Posting of intemperates

- (1) The Regional Administrator may by written order prohibit the selling, delivering, or supplying of liquor to a person in his region who—
 - (a) within the space of three months, has been three times convicted of an offence involving drunkenness; or,
 - (b) having been twice so convicted, has also been convicted of an offence involving assault; or,
 - (c) by excessive drinking of liquor, misspends, wastes or lessens his estate or greatly impairs his health or endangers the peace of his family.
- (2) Such order shall be in force, during such time as that Regional Administrator may fix, not exceeding a total period of twelve months in the region in which it was granted, and in another region into which that person may move or in which he may be.
- (3) The holder of a licence shall be guilty of an offence if he with knowledge of such prohibition sells, gives, delivers or supplies liquor to an intemperate, or allows an intemperate, on his premises, to obtain liquor directly or indirectly.
- (4) Any person, not being a holder of a licence, who with knowledge of such prohibition gives to, purchases or procures liquor for an intemperate shall be guilty of an offence and liable on conviction to the same penalties as prescribed in subsection (3).
- (5) A person to whom the sale, delivery or supply of liquor has been prohibited under this section, and who is found in possession of liquor shall be guilty of an offence and liable, on first conviction to a fine not exceeding fifty emalangeni or, in default of payment thereof, imprisonment not exceeding three months, and, on second or subsequent conviction, to a fine not exceeding one hundred emalangeni or, in default of payment thereof, imprisonment not exceeding six months or both.
- (6) Upon his conviction under this section, any liquor found in the possession of the offender shall *ipso facto*, be forfeited.
- (7) Any person to whom the sale, delivery or supply of liquor has been prohibited in terms of this section, and who, during the period of such prohibition is found in a bar or a room or passage from which there is direct communication to a bar by means of a door or other aperture shall be guilty of an offence and liable, on conviction, to a fine not exceeding fifty emalangeni or, in default of payment thereof, imprisonment not exceeding three months.

26. Right of ejection

- (1) The holder of a licence, or his servant or agent, may—
 - (a) refuse to serve any person with liquor, and,
 - (b) also, refuse to admit to, or expel from, the premises in respect of which his licence is granted—
 - (i) any person who is violent, quarrelsome, or disorderly, whether or not drunk; and
 - (ii) any person whose presence on his premises would subject him to a penalty under this Act.
- (2) Such person who, upon being requested by the holder of a licence or his servant or agent or a police officer, to quit the premises, fails or refuses to do so, shall be guilty of an offence and liable on conviction, to a fine not exceeding twenty emalangeni or, in default of payment thereof, imprisonment not exceeding six weeks.
- (3) On the demand of the holder of the licence, his servant or agent, a police officer shall expel or assist in expelling such person from the premises, and may use such force as is reasonably necessary for the purpose.

27. Miscellaneous offences

- (1) The holder of a licence shall be guilty of an offence and liable, on first conviction, to a fine not exceeding twenty emalangeni or, in default of payment thereof, imprisonment not exceeding six weeks and, on a second or subsequent conviction, a fine not exceeding fifty emalangeni or, in default of payment thereof, imprisonment not exceeding three months, if he—
- (a) allows a person under the age of eighteen years to be in a bar or to be in another place in which liquor is stored, or sold for consumption off the premises other than the premises of a general dealer licensed under a law relating to trading licences;
 - (b) allows a person other than the owner of the licensed premises or a member of his family or his employee, to be in a bar or other place where liquor is kept or stored, during the hours when the sale of liquor is prohibited to the general public; or
 - (c) sells liquor to a person already in a state of intoxication; or
 - (d) permits drunkenness or violent, riotous or quarrelsome conduct on his premises;
 - (e) suffers any unlawful game of gambling to be carried on, in or upon his premises; or
 - (f) knowingly harbours or suffers a police officer to remain on his premises, except for the purpose of accommodation, during a time appointed for such officer to be on duty, unless such officer is there for the purpose of keeping or restoring order, or otherwise in the execution of his duties;
 - (g) stores liquor at a place other than that stated in the application for his licence or otherwise specifically approved by the Commissioner of Police; or,
 - (h) being the holder of a licence in respect of an hotel fails or refuses, except for some sufficient reason, to supply at reasonable charges lodgings, meals or other foods, or accommodation, to travellers and employees accompanying travellers, and shelter for their vehicles, including motor conveyances;
 - (j) without having obtained the prior approval of the Board causes a structural alteration to be made to a part of the premises as designated in the licence held by him;
- [Please note: numbering as in original.]*
- (k) subject to paragraph (a) and except at the request of the parent or guardian of the person sells or delivers or supplies or knowingly permits to be sold or delivered, liquor to a person under the age of eighteen years or permits such a person to drink liquor on his premises.
- (2) The holder of a licence shall be guilty of an offence and liable on conviction to double the penalties provided in subsection (1), if he—
- (a) wilfully mixes or causes water or an injurious, poisonous or deleterious ingredient or material to be mixed with liquor in order to adulterate it for sale; or
 - (b) manufactures or sells any article, to which this Act assigns a meaning, if there has been added a substance the addition whereof to that article is not expressly authorised by this Act; or
 - (c) sells, or keeps for sale—
 - (i) liquor with which has been mixed an ingredient or material injurious to the health of persons drinking the liquor; or
 - (ii) a concoction specified by or under paragraph (e) of the definition "African beer" contained in [section 2](#).

- (3) A person shall be guilty of an offence and liable, on conviction, to a fine not exceeding fifty emalangeni, or, in default of payment thereof, imprisonment not exceeding three months, if he is drunk, violent or disorderly upon licensed premises or is drunk in or in the vicinity of—
- (a) a road, street, lane, thoroughfare, outspan, urban area or market place, or
 - (b) a shop, store, warehouse or public garage, or
 - (c) a place of entertainment, cafe, eating-house, race-course, gymkhana, showground or other premises or place to which the public is granted or has access, whether or not the right of admission be granted on payment or reserved to a class of persons.
- (4) Any person, other than the owner of the licensed premises, his family or his employee, who, during the hours when the sale of liquor is prohibited to the public, is found in a bar or other place where liquor is kept or stored, shall be guilty of an offence and liable, on conviction, to a fine not exceeding twenty emalangeni or, in default of payment thereof, imprisonment not exceeding six weeks.
- (5) A person who, by falsely representing himself to be a lodger at an hotel, or a *bona fide* traveller, buys, obtains or attempts to buy or obtain liquor on licensed premises, during the hours when the sale of liquor is prohibited to the general public, shall be guilty of an offence and liable on conviction to a fine not exceeding twenty emalangeni or, in default of payment thereof, imprisonment not exceeding six weeks.
- (6) Any person shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred emalangeni or, in default of payment thereof, imprisonment not exceeding one year, if, after being duly sworn, he gives false evidence before a Board on a matter relevant to a question under inquiry by the Board knowing such evidence to be false, or not knowing it to be true.
- (7) Any person other than the holder of a spirit manufacturer's licence shall be guilty of an offence and liable on conviction to a like penalty to that prescribed by subsection (3), if without lawful excuse, he is found in possession of a still or part of a still, or a concoction specified by or under paragraph (e) of the definition "African beer" contained in [section 2](#).
- [Amended A.4/1972]*
- (8) Any person who consumes liquor in a street in an urban area shall be guilty of an offence and liable on conviction to a like penalty to that prescribed by subsection (3).

28. Forfeiture of licences

- (1) Without prejudice to a power on any grounds to refuse a renewal of a licence, the prescribed authority may, in its discretion, declare forfeited a licence held by a person twice or more convicted of an offence under this or any other law relating to liquor.
- (2) Upon the second or subsequent conviction of a person under [section 21](#) who, at the time of such conviction, does not hold a liquor licence but holds a licence or licences of another description in a region, the judicial officer presiding may order that such person shall—
- (a) forfeit the licence or licences or any of them;
 - (b) during the remainder of the current year, be disqualified from taking out another licence; and,
 - (c) for a term of years, or at any time, be disqualified from holding a licence for the sale of liquor.
- (3) The penalties prescribed by this section shall be in addition to those prescribed by [section 21](#).

29. Evidence and proof

- (1) If, in the course of a search undertaken pursuant to [section 24](#), liquor or a still is found for which no valid authority is produced, the onus of proving that the liquor or still was lawfully purchased,

imported, removed or held shall lie upon the owner or occupier of the premises in which it is found, or, if appropriate, the person conveying or otherwise in possession of it.

- (2) If a person is charged with an offence under [section 27\(7\)](#), and it appears to the court before which such person is so charged that an apparatus found in his possession is capable of being used for some other purpose, the onus of proving that the apparatus was not used for distillation of liquor shall lie upon the person so charged.
- (3) If a person is charged with dealing in liquor without a licence, the onus of proving that he is the holder of a licence shall lie upon that person.
- (4) In a trial for a contravention of [section 27\(2\)](#), or a matter in which it is sought to establish the alcoholic strength of liquor, or the nature of a liquid, by the evidence of an analyst, a certificate purporting to be under the hand of a qualified analyst employed by the Government or the Government of the Republic of South Africa shall be *prima facie* evidence of the fact stated in the certificate and, unless the court specially directs, it shall not be necessary to tender the oral evidence of the analyst in support of the statement made or opinions given in his certificate.
- (5) If a person is charged under [section 27\(4\)](#) or (5), the onus of proving that he was at the time of the alleged offence an employee at the hotel, or, as the case may be, a lodger at the hotel or a *bona fide* traveller shall lie upon him.

30. Forfeitures

- (1) Subject to subsection (2), liquor or a still, wagon or other article or vehicle declared to be forfeited under this Act shall, in accordance with the directions of the Principal Secretary for Home Affairs, be sold and the proceeds thereof paid into the public revenue of Swaziland.
- (2) The court may in the case of liquor which is adulterated or not in sealed containers, or a still, in its discretion, order it to be destroyed.

31. Sales by sheriff or messenger

Notwithstanding anything in this Act, a sheriff, messenger or other person acting upon the authority of a court, judge or Regional Administrator, or an officer of customs, may in the discharge of his duty sell liquor; by public auction or tender to a person who is not an intemperate.

[Original section 31 repealed and replaced by A.4/1972 and is now section 32]

32. Manufacturer of liquor

- (1) No person, other than the holder of a spirits manufacturer's licence issued under this Act, shall distil, brew or manufacture spirits for the purpose of sale or otherwise dealing therein.
- (2) Notwithstanding anything in any other law, or in any licence granted under any law for the distillation, brewing, manufacturing of liquor and the sale thereof, no person shall sell or dispose of for use or consumption in Swaziland any liquor distilled, brewed, produced or manufactured by him to any person other than the holder of a licence under this Act:

Provided that this section shall not preclude the holder of a brewer's licence, or an African beer manufacturing and wholesale licence from selling malt liquor of the kind and quantity permitted to be sold under such licence to persons other than the holders of licences under this Act.

- (3) Notwithstanding anything in this Act, whenever under any excise law or other law or any regulations thereunder any licence or permit is required for the distillation, brewing, or manufacture of liquor, no liquor shall be distilled, brewed or manufactured save under such licence or permit or under such law.

[Amended A.4/1972]

33. Requirements in respect of certain classes of spirits

No person shall manufacture or sell under the name of brandy, grape brandy, wine brandy (cognac type), whisky, blended whisky, malt whisky, gin, liqueur, rum, blended rum, spirit aperitif, spirit cocktail, rectified spirit, cane spirit, vodka or wine spirit, any article which does not conform to the description of the article as defined under that name in [section 2](#).

[Added A.4/1972]

34. Prohibition on use of certain names or description for brandies

- (1) Save as provided in subsection (2) no person shall, as from a date to be fixed by the Minister by notice in the *Gazette*, sell in, or export from, Swaziland any type of brandy, whether produced in, or imported into, Swaziland, under any name or description whereof the use in respect of brandy of that type is prohibited in such notice:

Provided that the Minister may at any time withdraw or amend any notice issued in terms of this subsection by like notice in the *Gazette*.

- (2) The Minister may by notice in the *Gazette* permit the use of certain names or descriptions subject to such conditions and limitations as may be specified in such notice.

[Added A.4/1972]

35. Prohibition on addition of unauthorized substances to certain articles

No person shall manufacture or sell blended whisky, brandy, cane spirit, compounded gin, gin, grape brandy, liqueur, malt whisky, mixed spirits, orange fermented beverage, rectified spirit, rum, spirit aperitif, spirit cocktail, vodka, whisky, wine brandy (cognac type) or wine spirit if any substance has been added thereto unless such addition is authorized by this Act.

[Added A.4/1972]

36. Alcoholic strength of certain potable spirits

- (1) No person shall sell for potable purposes any spirits not referred to in section 35 of which the alcoholic strength is lower than twenty-five degrees under proof.
- (2) No person shall sell any spirits not referred to in [section 35](#) under a name or reference which includes any expression referred to in such section.

[Added A.4/1972]

37. Labelling of brandy, whisky, rum, etc.

No person shall sell brandy, whisky, rum, gin, liqueur, spirit aperitif, spirit cocktail, or vodka of any description, unless the bottle or receptacle containing it is labelled in large letters, easily legible, showing in the case of brandy whether it is brandy, wine brandy (cognac type) or grape brandy or, in the case of whisky, whether it is whisky, blended whisky, or malt whisky or, in the case of rum, whether it is rum or blended rum or, in the case of gin, liqueur, spirit aperitif, spirit cocktail or vodka, that it is gin, liqueur, spirit aperitif, spirit cocktail or vodka.

[Added A.4/1972]

38. Labelling of mixed spirits

No person shall sell mixed spirits unless the bottle or receptacle containing it is labelled in such a manner as to set forth in large letters, easily legible, of the same size, the specific spirits which have been used for the mixture.

[Added A.4/1972]

39. Labelling of rectified spirit and certain other spirits

No person shall sell for potable purposes rectified spirit or any other spirits not mentioned in section [37](#) or [38](#) unless the bottle or receptacle containing it is labelled in large letters, easily legible, showing the name of the raw material from which it has been derived, obtained or distilled.

[Added A.4/1972]

40. Colouring, flavouring or adulteration of rum

- (1) No person shall manufacture or sell rum which has been coloured otherwise than by caramel or from the wood of the cask in which such rum is stored, or has been flavoured otherwise than by means of sugar cane, leaves or pure fruit:

Provided that the flavouring substances permitted to be used shall be placed in the still along with the mash or megass, and shall not be added to the liquor after distillation.

- (2) No person shall sell under the name of rum, or add to rum in the manufacture thereof, any silent spirit, whether flavoured or unflavoured, or any product of the distillation of maize, barley or other cereal grain.

[Added A.4/1972]

41. Prohibition on sale of compounded gin

No person shall manufacture or sell compounded gin or any mixture of gin with compounded gin.

[Added A.4/1972]

42. Savings as to reduction of strength and flavouring and colouring of spirits

This Act shall not render it unlawful—

- (a) for any person who manufactures or sells brandy, grape brandy, wine brandy (cognac type), whisky, blended whisky, malt whisky, or mixed spirits, to reduce the strength of any such article which he manufactures or sells by the addition of water, provided such addition does not reduce the strength below twenty-five degrees under proof;
- (b) to flavour brandy, other than wine brandy (cognac type), or to add to any kind of brandy for sweetening purposes pure cane sugar previously made into syrup (not exceeding one and a half ounces of cane sugar per gallon) or any product of the vine, or to colour any class of brandy by means of pure caramel or by the material derived from the wood of the cask in which it is stored;
- (c) to sweeten brandy or to flavour brandy so as to impart to it the pronounced specific flavour of aniseed, ginger, cloves, peppermint, or other vegetable product, provided the designation of the flavouring used immediately precedes the word "brandy" on the label and is in letters of the same size and type as those forming the word "brandy";
- (d) to use the real essence of mint in the manufacture of any liqueur;
- (e) to treat distilled rum by means of pure charcoal for the purpose of improving its flavour;
- (f) to sweeten gin by means of cane sugar previously made into a syrup;

- (g) to flavour whisky, malt whisky, or blended whisky by the addition thereto of sherry wine, or to colour any such whisky by means of pure caramel or by the material derived from the wood of the cask in which it is stored; or
- (h) at any time prior to sale, to add water to rectified spirit, gin, cane spirit, rum, vodka or wine spirit to such extent as will not thereby reduce the alcoholic strength thereof below twenty-five degrees under proof.

[Added A.4/1972]

43. Offences by manufacturers or distillers

Any person contravening any of the provisions of [sections 32](#) to [section 41](#) inclusive shall be guilty of an offence and liable on conviction to a fine not exceeding E1,000.00 or imprisonment for two years, or both.

[Added A.4/1972]

44. Limitation of licence-holder's liability in respect of property of customers

- (1) The holder of a licence shall not be liable to compensate a person in respect of a loss of, or injury to, the property of such person sustained while such person was a lodger in the licensed premises of such holder in a greater amount than the sum of one hundred emalangenis unless—
 - (a) the loss or injury is proved to have been caused by the wilful act, or as a result of the default or negligence, of the holder of the licence or of a person in his employ; or
 - (b) the loss or injury was sustained while the property was deposited with the holder of the licence or a person expressly or impliedly authorised by the holder of the licence to receive that deposit; or
 - (c) the holder of the licence refused, save in the circumstances set forth in subsection (2), to receive the property offered for deposit, or failed to make adequate provision whereby the property could be deposited with him; or
 - (d) the holder of the licence failed to comply with the requirements of subsection (3).
- (2) The holder of a licence in respect of an hotel, to whom property is offered for deposit by a person lodging or about to lodge in his licensed premises, may require that the property shall be contained in a suitable receptacle closed and sealed by the depositor.
- (3) A refusal by the holder of the licence to accept property for deposit based upon a failure of such person to comply with such requirement shall not deprive the holder of the licence of the benefits of the limitations of liability in respect of loss of, or injury to, such property conferred by subsection (1).
- (4) The holder of a licence in respect of an hotel shall exhibit a copy of subsections (1), (2) and (3) in such manner and in such part of the hall or entrance of his licensed premises that it may readily be seen and easily read by a person proposing to lodge in the premises.
- (5) In so far as the liability of the holder of a licence up to the amount of one hundred emalangenis is concerned, nothing in this section shall be deemed to affect the operation of the common law.

45. Management and responsibility

- (1) The holder of a licence who, without the written consent of the Regional Administrator, permits another person to manage, superintend, or conduct the business of licensed premises during the absence of the holder for a longer period than ten days, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty emalangenis or, in default of payment thereof, imprisonment not exceeding three months.

- (2) If the holder of a licence is absent, his business may, without a formal transfer of the licence, be carried on by a manager whose appointment is approved in writing by the Regional Administrator, who may at any time withdraw his approval.
- (3) If the manager is absent, the business may be carried on by a deputy-manager, whose appointment is approved in the manner provided by subsection (2), and such deputy, when approved, shall occupy the same position in law as the manager.
- (4) A person who is, at any time lawfully managing, superintending or conducting the business of the holder of a licence as provided in this section, shall be subject to the same duties, obligations, and penalties as such holder, but nothing in this section shall be deemed to relieve such holder from any duties, obligations or penalties to which he may be subject or liable under this Act.
- (5) The holder of a licence who allows or permits a minor to manage, superintend or conduct the business of licensed premises, at any time or for any period, shall be deemed to have committed an offence and shall be liable to the same penalty as that prescribed by subsection (1).
- (6) If the holder of a licence dies, the executor of the estate of the deceased person and, failing or until the appointment of an executor, the surviving spouse, or a *curator bonis* appointed by the Master of the High Court for taking charge of the estate of that deceased person, or a person approved by the Regional Administrator, or, in the case of insolvency, the trustee of the estate of the insolvent, may, without a formal transfer of the licence, carry on the business until the end of the period for which the licence was granted, and such persons shall possess all the rights, and shall be liable to all the duties, obligations and penalties of the original holder of the licence.
- (7) If liquor, the property, or in the possession, of the holder of a licence, is imported, sold, delivered, dealt in, disposed of, or supplied contrary to this Act, by a person, being a member of the family or in the service, permanent, temporary or casual, of the holder, then—
 - (a) the liquor shall conclusively be deemed to have been imported, sold, delivered, dealt in, or disposed of, with the knowledge or permission of the holder of the licence; and
 - (b) all liquor imported, sold, delivered, dealt in, disposed of, or supplied contrary to this Act by such person, shall, unless the contrary is proved (the proof of which lies on the holder of the licence) be deemed to be the property of the holder of the licence or in his possession.
- (8) If the chief steward, or manager, or secretary, of a club, in whose name has been issued a licence in respect of the club, vacates, for any reason, his position, the chairman of the club or, in his absence, the secretary of the club, who fails—
 - (a) forthwith to give the chairman written notice of the name of the person appointed, whether temporarily or permanently, to the vacancy; and
 - (b) to cause the notice to be countersigned by that person,shall be guilty of an offence and liable to the same penalty as that provided by subsection (1).
- (9) Subject to the payment of the prescribed fee for the transfer of a licence, the person to whom the licence is transferred shall possess all the rights, and be subject to all the duties, obligations and penalties respecting the licence.

46. Restriction on credit sales of liquor

- (1) Subject to subsection (2), no person shall, save on premises in respect of which any kind of club liquor licence is held supply liquor on licensed premises to be consumed on the premises; or consume liquor on licensed premises, unless the liquor is paid for at the time when it is supplied.
- (2) Subsection (1) shall be deemed not to be contravened if the liquor is supplied—
 - (a) for consumption with an ordinary meal supplied at the same time and is consumed with that meal, and the price of the liquor is paid together with the price of the meal; or

- (b) in moderate quantity to the order of a person actually boarding or lodging there.
- (3) Except in the case mentioned in subsection (2), the holder of a licence shall not recover a sum of money or other thing on account of liquor sold by him on credit to a person for consumption on the licensed premises.
- (4) A person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding fifty emalangeni, or, in default of payment thereof, imprisonment not exceeding three months.

47. Closure of licensed premises

- (1) During a riot or tumult licensed premises shall be closed for such time as may be specified in a written order issuable by a Regional Administrator, or a police officer of the rank of superintendent or above.
- (2) Any person who fails to comply with an order issued under subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangeni or in default of payment thereof, imprisonment not exceeding six months.

48. Contracts

Save as is otherwise specially provided in this Act, a contract by which a person purports to relinquish any right or forego any obligation under this Act shall be deemed to be null and void.

49. Regulations

Subject to this Act, the Minister may make regulations—

- (a) as to the powers of the authority on the grant, renewal, removal or transfer of a licence;
 - (b) as to the conditions and privileges of the grant of a licence, including the type of liquor to be sold and supplied, the type of premises to be used and the imposition of licensed hours;
 - (c) as to the affixing to premises of appropriate signs in relation to the grant of a licence;
 - (d) as to the payment of fees and other charges;
 - (e) as to the imposition of penalties for late payment of those fees and charges; and,
 - (f) generally, as to all matters connected with the application for, or grant, renewal, transfer, removal or cancellation of, a licence and the inspection and control of licensed premises;
 - (g) for the control of the use of sugar in the manufacture or manipulating of any wine, other fermented beverage or spirits;
 - (h) for the keeping of records of the receipt, removal or disposal of sugar at any place or upon any premises in which any wine, other fermented beverage or spirits is manufactured or manipulated;
 - (j) prescribing the quantity of sugar which may be stored at any such place or in any such premises, and the times when, and the circumstances in which, sugar may be removed from any such place of storage;
- [Please note: numbering as in original.]*
- (k) prescribing the manufacturing processes of other fermented beverages, including the treatment before, during, or after the manufacture thereof;
 - (l) prescribing, in the case of any kind or type of other fermented beverage, the substances which may be added thereto before, during, or after manufacture thereof, and the maximum permissible percentage that any such substances may constitute thereof, or the maximum quantity of any such substance which may be so added thereto;

- (m) prescribing the composition, the alcoholic strength, the acid content, or the dry extract of any kind or type of other fermented beverage;
- (n) prescribing the requirements with which spirits derived from the distillation of other fermented beverages shall comply;
- (o) prescribing any alcoholic beverages to be included under the definition of "spirits" in [section 2](#), and the alcoholic content of such beverages, the acid content thereof, and the manufacturing processes thereof, including the treatment before, during, and after the manufacture thereof

[Added A.4/1972]

50. Repeal

The Liquor Licence Proclamation (Cap. 125) is hereby repealed.

Schedule (Under section 3 of the Act)

(1) Number	(2) Type of licence
1.	Wholesale liquor licence.
2.	Hotel liquor licence.
3.	Club liquor licence.
4.	Sports club liquor licence.
5.	Unfortified wine and malt liquor licence.
6.	Restaurant liquor licence.
7.	Bottle store liquor licence.
8.	Restricted bottle store liquor licence.
9.	Brewer's licence.
10.	African beer manufacturing and wholesale licence.
11.	Canteen licence.
12.	Employer's liquor licence.
13.	African beer licence.
14.	Temporary liquor licence.
15.	Late extension (occasional) liquor licence.