

LIQUOR PRODUCTS ACT 60 OF 1989

(Afrikaans text signed by the State President)

*[Assented To: 17 May 1989]
[Commencement Date: 1 July 1990]*

as amended by:

Wine and Spirit Control Act 47 of 1970
[as amended by the Wine and Spirit Control Amendment Act 25 of 1998]
Liquor Products Amendment Act 11 of 1993
Liquor Act 59 of 2003
Liquor Products Amendment Act 32 of 2008
Liquor Products Amendment Act 8 of 2021

ACT

To provide for control over the sale and production for sale of certain alcoholic products, the composition and properties of such products and the use of certain particulars in connection with the sale of such products; for the establishment of schemes; for control over the import and export of certain alcoholic products; and for matters connected therewith.

ARRANGEMENT OF SECTIONS

1. Definitions
2. Wine and Spirit Authority
3. Administering officer
4. Restriction on sale of certain alcoholic products
5. Requirements regarding wine
6. Requirements regarding alcoholic fruit beverages
7. Requirements regarding spirits
8. Requirements regarding grape-based liquors
9. Requirements regarding spirit-based liquors
10. Authorizations regarding certain alcoholic products
11. Use of certain particulars in connection with the sale of liquor products
12. Prohibition of false or misleading descriptions for liquor products
13.
14. Establishment of schemes
15. Provisions of schemes
16. Restriction on the importation of certain alcoholic products
17. Restriction on the exportation of liquor products
18. Powers of entry, investigation and sampling
19. Seizures
20. Analysis of samples
21. Secrecy
22. Appeals
23. Offences and penalties
24. Presumptions and evidence
25. Forfeitures
26. Vicarious liability
27. Regulations

- 28. Discretionary powers
 - 29. Delegation of powers
 - 30. Defects in form
 - 31. Limitation of liability
 - 32. Repeal and amendment of laws
 - 33. Short title and commencement
- Schedule - Laws repealed or amended

1. Definitions

In this Act, unless the context otherwise indicates -

“administering officer” means the administering officer who has been designated under section 3;

“advertisement”, in relation to a liquor product, means any written, illustrated, visual or other descriptive matter or oral statement, communication, representation or reference which is distributed among members of the public or otherwise brought to their notice, and which is or purports to be intended to promote the sale of a liquor product or to encourage the use thereof or otherwise to draw attention thereto; and **“advertise”** has a corresponding meaning;

“alcohol content”, in relation to any product, means a percentage of ethyl alcohol per volume of the product;

“alcoholic fruit beverage” means a product which complies with the requirements referred to in section 6;

“analyst” means a person or institution designated under section 20 as an analyst;

“Authority” means the Wine Certification Authority established in terms of section 2;

“beer” means a product which meets the requirements referred to in section 6A;

“board” ...

“class designation” -

- (a) in relation to wine, an alcoholic fruit beverage, beer, traditional African beer, other fermented beverage, a spirit, a grape-based liquor or a spirit-based liquor, means the prescribed designation or prescribed permissible alternative designation for a class thereof; and
- (b) in relation to any other liquor product in respect of which an import certificate has been issued, means the designation specified in such import certificate;

“container” ...

“department” means the Department of Agriculture, Forestry and Fisheries;

“Director-General” means the Director-General of the department;

“export certificate” means an export certificate referred to in section 17, or a document which is in terms of the said section deemed to be an export certificate;

“grape-based liquor” means a product which complies with the requirements referred to in section 8;

“grapes” means fruit of plants of *Vitis*;

“import certificate” means an import certificate referred to in section 16, or a document which is in terms of the said section deemed to be an import certificate;

“international obligations” includes the Trade-Related Intellectual Property Rights or the Wine and Spirit Agreement;

“label”, in relation to a container, means any printing or writing appearing on the container or attached thereto;

“liquor product” means -

- (a) wine;
- (b) an alcoholic fruit beverage;
- (c) beer;
- (d) traditional African beer;
- (e) other fermented beverage;
- (f) a spirit;
- (g) a grape-based liquor;
- (h) a spirit-based liquor; and
- (i) any liquor other than a product mentioned in paragraph (a), (b), (c), (d), (e), (f), (g) or (h), in respect of which an import certificate has been issued;

“Minister” means the Minister of Agriculture, Forestry and Fisheries;

“officer” means an employee as defined in section 1 of the Public Service Act, 1994 (Proclamation 103 of 1994);

“other fermented beverage” means a product which meets the requirements referred to in section 6C;

“prescribed” means prescribed by regulation;

“regulation” means a regulation made under section 27;

“scheme” means a scheme which has been established under section 14;

“**sell**” includes agree to sell, or offer, advertise, keep, expose, transmit, send, convey or deliver for sale, or to exchange or to dispose of in any way for any consideration; and “**sale**” and “**sold**” have corresponding meanings;

“**specially authorized liquor**” ...

“**spirit**” means a product which complies with the requirements referred to in section 7;

“**spirit-based liquor**” means a product which complies with the requirements referred to in section 9;

“**this Act**” includes the regulations;

“**traditional African beer**” means a product which meets the requirements referred to in section 6B;

“**wine**” means a product which complies with the requirements referred to in section 5.

2. Wine Certification Authority

- (1) There is hereby established an Authority to be known as the Wine Certification Authority, which shall be a juristic person.
- (2) (a) The Authority consists of -
 - (i) 10 persons with the relevant knowledge, skills or expertise in viticulture, oenology, distilling, regulatory environment of the liquor industry, liquor production, food safety or microbiology, representing the participants to the schemes established under section 14: Provided that if a scheme deals with ethical trading standards, two of those persons shall be representatives of workers of participants to schemes;
 - (ii) three officers of the department nominated by the Director-General;
 - (iii) one person nominated by the Agricultural Research Council; and
 - (iv) one person designated by the Minister.
- (b) The Minister shall appoint the members of the Authority and shall designate one of the members of the Authority as chairperson.
- (c) The Minister shall notify Parliament in writing of the appointment of the members of the Authority within 30 days after such appointment.
- (d) The process for the appointment of the members of the Authority shall be as follows:
 - (i) The Minister shall, by notice in the *Gazette* and in any national newspaper circulating in every province of the Republic, invite persons, stakeholders and the liquor industry to submit to the Minister, within a period mentioned

in the notice, the names of persons who comply with the criteria referred to in paragraph (a)(i);

- (ii) the Minister shall establish a selection committee consisting of at least four persons and designate a chairperson for the committee; and
 - (iii) the selection committee shall, from the nominations submitted to it, compile a shortlist of eligible candidates and submit its recommendation to the Minister for the appointment of members to the Authority.
- (3) No person shall be appointed as a member of the Authority -
- (a) unless he or she is a South African citizen permanently resident in the Republic;
 - (b) if he or she is an unrehabilitated insolvent;
 - (c) if he or she has been convicted of an offence under this Act; or
 - (d) if he or she has been convicted of any offence for which he or she has been sentenced to imprisonment without the option of a fine.
- (4) (a) A member of the Authority shall hold office, subject to subsection (5), for a period not exceeding three years, and such member shall after the expiration of such period, continue in office until his or her successor has been appointed.
- (b) If a member of the Authority ceases to hold office for any reason, the Minister may, subject to subsection (2), appoint any person in his or her place for the unexpired period of his or her term of office.
- (c) Any person whose term of office as a member of the Authority has expired, shall immediately thereafter be eligible for reappointment without complying with the process contemplated in subsection (2)(d).
- (5) (a) A member of the Authority shall vacate office if he or she—
- (i) becomes disqualified in terms of subsection (3);
 - (ii) becomes of unsound mind;
 - (iii) has been absent from more than two consecutive meetings of the Authority without the leave of the chairperson.
- (b) Subject to the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000), the Minister may at any time remove a member of the Authority from office if in the opinion of the Minister, sound reasons exist for doing so.
- (6) (a) The members of the Authority shall at the first meeting of the Authority, and thereafter whenever necessary, elect a deputy chairperson from amongst themselves.

- (b) If both the chairperson and the deputy chairperson are absent from a meeting of the Authority, the members present shall from amongst themselves elect a member to preside at such meeting.
- (7)
- (a) The first meeting of the Authority shall be held at a time and place determined by the chairperson, and thereafter at such times and places as the Authority may from time to time determine.
 - (b) Notwithstanding the provisions of paragraph (a) the chairperson of the Authority may at his or her discretion call a special meeting of the Authority at such time and place as he or she may determine, with a view to dealing with special or urgent matters, and he or she shall call a special meeting within 14 days of the date on which he or she has received a written request to this effect from the Minister or at least four members of the Authority.
 - (c) The majority of the members of the Authority shall constitute a *quorum* for a meeting of the Authority.
 - (d) The decision of the majority of the members of the Authority present at a meeting thereof shall constitute a decision of the Authority, and in the event of an equality of votes on any matter, the person presiding at the meeting in question shall have a casting vote in addition to his or her deliberative vote.
 - (e) No decision taken by the Authority or act performed on the authority of the Authority shall be invalid merely by reason of a vacancy on the Authority or because a person who was not entitled to sit as a member, sat as such member at the time when the decision was taken or the act was authorised, if the decision was taken or act authorised by the majority of the members present at the time and who were entitled to sit as members of the Authority.
- (8)
- (a) The Authority may, either from among its number or in such other manner determined by the Authority, appoint one or more committees to perform, subject to the directions of the Authority, such functions of the Authority as the Authority may determine, or to advise the Authority on any matter in respect of which a function is assigned to the Authority.
 - (b) The Authority may at any time dissolve or reconstitute a committee contemplated in paragraph (a).
 - (c) The Authority shall not be divested of any function performed in terms of the provisions of this subsection by any committee of the Authority.
 - (d) Any decision of a committee may be withdrawn or amended by the Authority or referred back to such committee and shall, until it has been so withdrawn or amended, except for the purposes of this paragraph, be deemed to be a decision of the Authority.
- (9) A member of the Authority and a member of a committee referred to in subsection (8) who are not in the full-time employment of the State, may be paid from the funds of the Authority such allowances as the Authority may, with the concurrence of the Minister and the Minister responsible for finance, determine in general or in any particular case.

- (10) (a) In addition to such functions as may be assigned to the Authority by or under this Act or in terms of a scheme or under any other law, the Authority may—
- (i) hire, purchase or otherwise acquire such movable or immovable property as the Authority may deem necessary for the performance of its functions, and may rent, sell or otherwise dispose of property so acquired;
 - (ii) from time to time raise money by way of loan for the purpose of performing its functions;
 - (iii) hypothecate its immovable property as security for a loan referred to in subparagraph (ii);
 - (iv) insure itself against any loss, damage, risk or liability which it may suffer or incur;
 - (v) enter into agreements for the performance of specific acts or functions or the rendering of specific services;
 - (vi) from time to time make recommendations to the Minister concerning any matter to which a scheme relates; and
 - (vii) in general, perform such acts as it may deem necessary or expedient for the efficient performance of its functions.
- (b) The work incidental to the performance of the functions of the Authority shall be performed by—
- (i) persons appointed by the Authority on such conditions and at such remuneration as the Authority may determine; and
 - (ii) persons with whom the Authority entered into agreements in terms of paragraph (a)(v).
- (11) (a) The funds of the Authority shall consist of—
- (i) money paid to the Authority in terms of this Act or a scheme; and
 - (ii) money which accrues to the Authority from any other source.
- (b) The Authority shall utilise its funds for the defrayal of the expenses incurred by the Authority in the performance of its functions.
- (c) The Authority shall open an account with an institution registered as a bank in terms of the Banks Act, 1990 (Act 94 of 1990), and shall deposit in that account all money received in terms of paragraph (a).
- (d) The Authority may invest any of its money not required for immediate use.

- (12) (a) The financial year of the Authority shall end on such date in each year as the Authority may determine.
- (b) The Authority shall—
- (i) cause adequate records to be kept of money received or expended by it, and of its assets, liabilities and financial transactions; and
 - (ii) as soon as possible, but not later than three months after the end of each financial year, cause annual financial statements to be prepared showing, with the appropriate particulars, money received and expenditure incurred by it during, and its assets and liabilities at the end of, the said financial year.
- (c) The records and annual financial statements referred to in paragraph (b) shall be audited by a person registered as an auditor in terms of the Auditing Profession Act, 2005 (Act 26 of 2005).
- (13) (a) The Authority shall, within six months at the end of each financial year, submit to the Minister a copy of the audited annual financial statements referred to in subsection (12) (c), together with a report on the activities of the Authority during that financial year.
- (b) Copies of the annual financial statements and of the report referred to in paragraph (a) shall—
- (i) be open to public inspection at the office of the Authority during office hours; and
 - (ii) be obtainable from the Authority against payment of the amount determined therefor by the Authority.

3. Administering officer

- (1) The Minister shall designate an officer in the department as administering officer, who shall, subject to the control and instructions of the Minister, exercise the powers and carry out the duties conferred or imposed upon the administering officer by or under this Act.
- (2) (a) The administering officer may in writing delegate or transfer to any officer under his or her control any such power or duty, or in writing authorize any such officer to exercise such power or carry out such duty.
- (b) Any decision made or order given by such officer may be withdrawn or amended by the administering officer and shall, until it has been so withdrawn or amended, except for the purposes of this paragraph, be deemed to have been made or given by the administering officer.

4. Restriction on sale of certain alcoholic products

- (1) No person shall sell or produce for sale any product -

- (a) with an alcohol content of more than 0.5 per cent for drinking purposes; or
- (b) including but not limited to a powder form, which, combined with any substance or liquid, will have an alcohol content of more than 0.5 per cent and is intended for drinking purposes,

unless that product is a liquor product.

- (1A) The Minister may grant exemption, under such circumstances and subject to such conditions as he or she may prescribe, from a prohibition referred to in subsection (1)(b).
- (2) The provisions of subsection (1) shall not apply to -
 - (a) ...
 - (b) medicine as defined in section 1 (1) of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965).

5. Requirements regarding wine

- (1) Wine shall be produced -
 - (a) from grapes of a prescribed cultivar;
 - (b) by -
 - (i) the alcoholic fermentation, in accordance with generally accepted cellar practices, of the juice of grapes contemplated in paragraph (a) or the reconstituted juice obtained from a concentrate of the juice of such grapes or of a mixture of such juice and such reconstituted juice; and
 - (ii) completing or terminating such alcoholic fermentation; or
 - (iii) the addition of a prescribed spirit derived from grapes, to juice of such grapes or such fermented juice; and
 - (c) in such a manner that it complies with the prescribed requirements for wine or a particular prescribed class thereof.
- (2) Wine shall not contain a particular prescribed substance to a greater extent than that prescribed.
- (3) No person shall, either before, during or after completion or termination of the alcoholic fermentation referred to in subsection (1) (b) -
 - (a) add to or remove from the juice of fresh grapes or the wine produced therefrom, any substance other than a substance prescribed for this purpose; and

- (b) so add or remove a substance so prescribed, otherwise than in accordance with the prescribed manner or conditions.

6. Requirements regarding alcoholic fruit beverages

- (1) An alcoholic fruit beverage shall -
 - (a) be produced from the juice of fresh fruit that is in such a condition that alcoholic fermentation can occur therein without diluting that juice;
 - (b) except where expressly provided otherwise by regulation -
 - (i) be produced from the juice of a single kind of fruit only; and
 - (ii) not be produced from the juice of grapes;
 - (c) be produced by the alcoholic fermentation of such juice, or of reconstituted juice obtained from a concentrate of such juice, or of a mixture of such juice and such reconstituted juice;
 - (d) be produced by completing or terminating such alcoholic fermentation;
 - (e) be produced by the application of the prescribed production processes only; and
 - (f) be produced in such a manner that it is of a prescribed class and complies with the prescribed requirements for the class concerned.
- (2) An alcoholic fruit beverage shall not contain a particular prescribed substance to a greater extent than that prescribed.
- (3) No person shall, either before, during or after completion or termination of the alcoholic fermentation referred to in subsection (1) (c) -
 - (a) add to or remove from the juice, reconstituted juice, mixture of juice and reconstituted juice or the alcoholic fruit beverage produced therefrom, any substance other than a substance prescribed for this purpose; and
 - (b) so add or remove a substance so prescribed, otherwise than in accordance with the prescribed manner or conditions.

6A. Requirements regarding beer

- (1) Beer shall -
 - (a) be produced by the alcoholic fermentation of wort prepared from starch and sugar containing raw materials with or without the addition of potable water;
 - (b) except where expressly provided otherwise by regulation -
 - (i) be flavoured with hops or hop products;

- (ii) be produced in such a manner that at least 35 per cent of the fermentable extract of the wort is derived from malted barley or malted wheat; and
 - (c) be produced in such a manner that it is of a prescribed class and complies with the prescribed requirements for the class concerned.
- (2) Beer shall not contain a particular prescribed substance to a greater extent than that prescribed.
- (3) No person shall, either before, during or after the alcoholic fermentation referred to in subsection (1)(a) -
 - (a) add to or remove from the water, wort, raw materials or the beer produced therefrom or the hops or hop products, any substance other than a substance prescribed for this purpose; and
 - (b) add or remove a substance prescribed under paragraph (a), otherwise than in accordance with the prescribed manner or conditions.

6B. Requirements regarding traditional African beer

- (1) Traditional African beer shall -
 - (a)
 - (i) be produced by the alcoholic fermentation of malted grain of sorghum, maize, finger millet or pearl millet, or unmalted grain or meal of sorghum, maize, finger millet or pearl millet;
 - (ii) be in a state of alcoholic fermentation, or not have its alcoholic fermentation arrested;
 - (iii) contain at least four per cent solids derived from the grain or meal referred to in subparagraph (i); and
 - (iv) not contain or be flavoured with hops or any product derived from hops;
 - (b) be a powder, which -
 - (i) comprises not more than three parts by mass of milled sorghum or maize malt;
 - (ii) comprises not less than seven parts by mass of milled, precooked maize or unmalted sorghum grain or meal; and
 - (iii) does not contain or is not flavoured with hops or any product derived from hops; and
 - (c) be produced in such a manner that it is of a prescribed class and complies with the prescribed requirements for the class concerned.
- (2) Traditional African beer shall not contain a particular prescribed substance to a greater extent than that prescribed.

- (3) No person shall, either before, during or after the production of a traditional African beer -
 - (a) add to or remove from the raw materials, in processed form or not, or the traditional African beer produced therefrom, any substance other than a substance prescribed for this purpose; and
 - (b) add or remove a substance prescribed under paragraph (a), otherwise than in accordance with the prescribed manner or conditions.

6C Requirements regarding other fermented beverage

- (1) Other fermented beverage shall -
 - (a) be produced by alcoholic fermentation in the prescribed manner of a prescribed substance; and
 - (b) be produced in such a manner that it is of a prescribed class and complies with the prescribed requirements for the class concerned.
- (2) Other fermented beverage shall not contain a particular prescribed substance to a greater extent than that prescribed.
- (3) No person shall, either before, during or after the alcoholic fermentation referred to in subsection (1)(a) -
 - (a) add to or remove from the prescribed substance referred to in that paragraph or the other fermented beverage produced therefrom, any substance other than a substance prescribed for this purpose; and
 - (b) add or remove a substance prescribed under paragraph (a), otherwise than in accordance with the prescribed manner or conditions.

7. Requirements regarding spirits

- (1) A spirit shall -
 - (a) be produced by the distillation or redistillation, in accordance with the prescribed requirements, of a fermented vegetable article or the distillate obtained therefrom; and
 - (b) be produced in such a manner that it is of a prescribed class and complies with the prescribed requirements for the class concerned.
- (2) A spirit shall not contain a particular prescribed substance to a greater extent than that prescribed.
- (3) No person shall -

- (a) add to a spirit any substance other than a substance prescribed for this purpose; and
- (b) so add a substance so prescribed, otherwise than in accordance with the prescribed manner or conditions.

8. Requirements regarding grape-based liquors

- (1) A grape-based liquor shall -
 - (a) be produced from grapes of a prescribed cultivar of which the juice has undergone complete or partial alcoholic fermentation;
 - (b) be produced by treating such juice or fermented product in the prescribed manner, or by adding thereto or removing therefrom a prescribed substance; and
 - (c) be produced in such a manner that it is of a prescribed class and complies with the prescribed requirements for the class concerned.
- (2) A grape-based liquor shall not contain a particular prescribed substance to a greater extent than that prescribed.
- (3) No person shall, either before, during or after completion or termination of the alcoholic fermentation referred to in subsection (1) (a) -
 - (a) add to or remove from the product from which a grape-based liquor is produced, or a substance added in terms of subsection (1) (b), or a grape-based liquor, any substance other than a substance prescribed for this purpose; and
 - (b) so add or remove a substance so prescribed, otherwise than in accordance with the prescribed manner or conditions.

9. Requirements regarding spirit-based liquors

- (1) A spirit-based liquor shall -
 - (a) be produced by the treatment of a spirit in the prescribed manner, or by the addition of a prescribed substance to a spirit; and
 - (b) be produced in such a manner that it is of a prescribed class and complies with the prescribed requirements for the class concerned.
- (2) A spirit-based liquor shall not contain a particular prescribed substance to a greater extent than that prescribed.
- (3) No person shall -
 - (a) add to a spirit from which a spirit-based liquor is produced, or a substance added in terms of subsection (1) (a), or a spirit-based liquor, any substance other than a substance prescribed for this purpose; and

- (b) so add a substance so prescribed, otherwise than in accordance with the prescribed manner or conditions.

10. Authorizations regarding certain alcoholic products

- (1) The Minister may by notice in the *Gazette* grant authority that a person specified in such notice -
 - (a) may sell, or produce for sale, for drinking purposes, a sacramental beverage specified in such notice;
 - (b) may sell, or produce for sale, for drinking purposes, an alcoholic beverage obtained by the alcoholic fermentation of the juice of oranges together with cane sugar; or
 - (c) may sell, or produce for sale, for drinking purposes, an alcoholic beverage obtained by the alcoholic fermentation of honey.
- (2) An application for such authorization shall be made in the prescribed manner and be accompanied by the prescribed application fee.
- (3) Such an authorization -
 - (a) shall, in the case of an alcoholic beverage referred to in subsection (1) (b) or (c) be granted only if -
 - (i) the person concerned is authorized in terms of a licence or authority issued or granted by or under the Liquor Act, 1989 (Act No. 27 of 1989), to sell liquor as defined in the said Act;
 - (ii) the person concerned is the successor in law of a person who was by notice under section 7 (2) (a) (ii) of the Wine, Other Fermented Beverages and Spirits Act, 1957 (Act No. 25 of 1957), permitted to sell the alcoholic product concerned or to produce it for sale, or is the successor in law of the first-mentioned person; and
 - (iii) the predecessor in law to the person concerned has maintained the permission or authorization concerned as contemplated in subsection (6); and
 - (b) shall be granted for the period specified in the notice concerned, and the continued validity thereof may be maintained as contemplated in subsection (6).
- (4) A notice referred to in subsection (1) may contain conditions and restrictions regarding -
 - (a) the premises at which the alcoholic beverage concerned may be produced;
 - (b) the volume of the alcoholic beverage concerned that may be produced annually;
 - (c) the designation that shall apply as the class designation for the alcoholic beverage concerned;

- (d) the alcohol content of the alcoholic beverage concerned;
 - (e) the processes which may or shall be applied in connection with the production of the alcoholic beverage concerned;
 - (f) the substances that may either before, during or after the production of the alcoholic beverage concerned, be added thereto or removed therefrom, and the manner in which and the conditions subject to which such substances may be so added or removed;
 - (g) the extent to which particular substances may occur in the alcoholic beverage concerned;
 - (h) supervision over the production of the alcoholic beverage concerned;
 - (i) the records that shall be kept and the returns that shall be furnished in connection with the production and sale of the alcoholic beverage concerned; and
 - (j) any other matter which the Minister may, subject to the provisions of this Act, deem necessary or expedient in order to attain the objects of this section, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.
- (5) (a) Subject to the provisions of paragraph (b), a notice under section 7 (2) (a) of the Wine, Other Fermented Beverages and Spirits Act, 1957, in terms of which a person is permitted to sell or to produce for sale an alcoholic beverage specified in such notice, and which is in force immediately prior to the commencement of this section, shall be deemed to be a notice referred to in subsection (1).
- (b) The validity of a permission granted in a notice referred to in paragraph (a) shall expire on a date 90 days after the date of commencement of this section, unless the person mentioned in such notice has before or on such date of expiry lodged a written application for the continuation of the validity thereof with the administering officer.
- (6) A person authorized or deemed to be authorized in terms of this section, shall annually at the prescribed time and in the prescribed manner pay the amount prescribed in respect of the maintenance of that authority.
- (7) (a) An authorization granted or deemed to be granted in terms of this section shall lapse if -
- (i) the amount payable in terms of subsection (6) has not been paid as contemplated in that subsection; or
 - (ii) the licence or authority referred to in subsection (3) (a) in respect of the person concerned, has lapsed or has been withdrawn.
- (b) If an authorization has lapsed as contemplated in paragraph (a), the Minister shall make it known by notice in the *Gazette*.

11. Use of certain particulars in connection with the sale of liquor products

- (1) No person shall sell any liquor product in a container, unless the prescribed particulars of such liquor product are indicated in the prescribed manner on the label of such container and on the package of such container.
- (2) No person shall in connection with the sale of a liquor product -
 - (a) use the word “wine” or “wyn”, unless it forms part of a class designation for the liquor product concerned, or that liquor product is wine;
 - (b) use the word “spirit” or “spiritus”, unless it forms part of a class designation for the liquor product concerned, or that liquor product is a spirit;
 - (c) use the word or expression “beer”, “bier”, “traditional African beer”, “tradisionele Afrikabier”, “alcoholic fruit beverage”, “alkoholiese vrugtedrank”, “grape-based liquor”, “druifbasisdrank”, “spirit-based liquor”, “spiritusbasisdrank”, “other fermented beverage” or “ander gegiste drank” unless it forms part of a class designation for the liquor product concerned;
 - (d) use a class designation, or any word or expression that so resembles a class designation that it will deceive or is likely to deceive, unless it is the applicable class designation for the liquor product concerned;
 - (e) indicate the alcohol content of the liquor product concerned in any way other than by means of a percentage per volume; and
 - (f) use the name of any country, or a word or expression containing such name or partially consisting thereof, in a manner which indicates or purports to indicate that such liquor product is a product of a country other than the country of origin thereof.
- (3) (a) Unless authorized thereto in terms of a scheme, no person shall use in connection with the sale of wine -
 - (i) the name under which an area or a piece of land or a portion of a piece of land is defined by virtue of provision included in a scheme in terms of section 15 (1) (d), or deemed in terms of section 15 (2) (a) to have been so defined;
 - (ii) the name under which an area in the Republic where viticulture is practised is generally known, irrespective of whether the boundaries of such area can readily be determined or not;
 - (iii) the designation of any vine cultivar, or any word or expression that so resembles such designation that it will deceive or is likely to deceive;
 - (iv) any particulars that indicate or purport to indicate that the wine concerned was produced in a particular year or from grapes harvested in a particular year; and

- (v) the word “estate”, “landgoed”, “vineyard”, “wingerd”, “origin”, “oorsprong”, “vintage”, “oesjaar”, “superior” or “superieur”, or a translation of any of the said words in any language whatsoever, or any word or expression that so resembles any of the said words or a translation thereof that it will deceive or is likely to deceive.
- (b) The Minister may, on the recommendation of the Authority, by notice in the *Gazette* publish lists of the names and designations referred to in paragraph (a) (ii) and (iii).
- (c) The Minister may by notice in the *Gazette* declare the provisions of paragraph (a), or so many thereof as he or she may deem expedient in a particular case, applicable to a liquor product other than wine, or a particular class thereof.
- (4) (a) The Minister may by notice in the *Gazette* prohibit or reserve, under such circumstances and on such conditions as may be set out in the notice, the use of any word, expression or representation in connection with the sale of a particular liquor product, or a particular class thereof.
- (b) ...
- (5) Notwithstanding anything to the contrary contained in this section, the Minister may by regulation -
 - (a) prescribe the words or expressions that are permissible additions to or transformations of specified class designations of particular liquor products; and
 - (b) grant exemption, under such circumstances and subject to such conditions as may be prescribed, from a prohibition referred to in subsection (2) or (3).
- (6) The provisions of this section shall not be construed as restricting the use of -
 - (a) a trade mark as defined in section 2 (1) of the Trade Marks Act, 1963 (Act No. 62 of 1963), which is used or is intended for use in connection with the sale of a liquor product;
 - (b) the name of a company as defined in section 1 (1) of the Companies Act, 1973 (Act No. 61 of 1973);
 - (c) the name of a co-operative society as defined in section 1 of the Wine and Spirit Control Act, 1970 (Act No. 47 of 1970); or
 - (d) the name of a corporation as defined in section 1 of the Close Corporations Act, 1984 (Act No. 69 of 1984),

that was registered, used or established on the date of commencement of this section, except if the word “estate”, “landgoed”, “vineyard” or “wingerd” is contained in, or forms part of, such trade mark or name.

- (7) The Authority and the administering officer shall for the purposes of any proceedings in terms of any applicable law, be deemed to be an interested party who may lawfully lodge an objection against the continued registration, or an application for the registration of, a trade mark or name referred to in subsection (6) in so far as such objection relates to any word, expression or other particulars referred to in subsection (2), (3) or (4).

12. Prohibition of false or misleading descriptions for liquor products

- (1) No person shall use any name, word, expression, reference, particulars or indication in any manner, either by itself or in coherence with any other verbal, written, printed, illustrated or visual material, in connection with the sale of a liquor product in a manner that conveys or creates or is likely to convey or create a false or misleading impression as to the nature, substance, quality, composition or other properties, or the class, cultivar, origin, age, identity, or manner or place of production, of the liquor product.
- (2) If -
- (a) the administering officer or the board, as the case may be, is of the opinion that a person has contravened the provisions of subsection (1); and
- (b) such person has declared himself or herself prepared thereto in writing,
- the administering officer or the Authority, as the case may be, may refer the alleged contravention for investigation and decision to an appeal Authority referred to in section 22.

13.

13A Restriction on use of geographical names

- (1) The Minister may, taking into account the Republic's international obligations or agreements with other countries, by notice in the *Gazette* restrict the use of specified geographical names in connection with the sale or export of a specified liquor product, on such conditions as may be specified in such notice.
- (2) A notice issued in terms of subsection (1) shall also apply where the geographical name concerned -
- (a) is used in conjunction with an indication of the true origin of the liquor product;
- (b) is translated; or
- (c) is accompanied by an expression such as 'kind', 'type', 'style', 'imitation' or any similar expression,

14. Establishment of schemes

- (1) The Minister may on the recommendation of the Authority by notice in the *Gazette* establish a scheme in respect of a liquor product derived from grapes, with a view to further regulating particular matters relating to the production and sale of such liquor

products, including the granting of authorisations for the use of particulars referred to in section 11 (3) (a) and (4) in connection with the sale of the said liquor products.

- (2) The provisions of different schemes may differ to such extent as the Minister may determine on the recommendation of the Authority.
- (3) A scheme so established shall be administered by the Authority.

15. Provisions of schemes

- (1) A scheme may -
 - (a) set out the objects of the scheme;
 - (b) indicate the liquor product or class of liquor product to which the scheme applies;
 - (c) indicate the particulars referred to in section 11 (3) (a) and (4) of which the use in connection with the sale of a liquor product may be authorized in terms of such scheme;
 - (d) provide authority for the defining of areas and pieces of land and portions of pieces of land under particular names, for the amendment or withdrawal of such definitions, and for the imposition of conditions applicable to any such definition, withdrawal or amendment;
 - (e) indicate the requirements to be complied with before an authorization referred to in paragraph (c) may be granted;
 - (f) contain directives regarding the raw materials to be used in connection with the production of the liquor product or class of liquor product concerned, the place or time of production and the composition thereof;
 - (g) provide for the applications to be made, the notices to be furnished, the approvals to be obtained and the records to be kept in connection with the processes applied during the production of the liquor product or class of liquor product concerned;
 - (h) contain directives relating to the addition of substances to, the removal of substances from and the application of processes to the liquor product or class of liquor product concerned, whether before, during or after the production thereof;
 - (i) indicate the requirements and conditions to be complied with during the production of the liquor product or class of liquor product concerned;
 - (j) set out the circumstances and conditions under which a person may terminate his or her participation in such scheme;
 - (k) provide for the control to which the liquor product or class of liquor product concerned shall be subject before an authorization referred to in paragraph (c) may be granted;

- (l) indicate the type of container in which the liquor product or class of liquor product concerned shall or may be contained, as well as the maximum capacity of such containers;
 - (m) indicate the requirements relating to the labels on and the labelling of such containers, including the approval of labels;
 - (n) provide that an authorization referred to in paragraph (c), in respect of a particular quantity of the liquor product or class of liquor product concerned may be refused if the Authority is satisfied that -
 - (i) any other provision of such scheme has not been complied with in respect of such quantity; or
 - (ii) such quantity does not comply with the quality standards determined by the Authority;
 - (o) require that a seal or other mark determined by the Authority for this purpose shall, in a manner determined by the Authority, be affixed to or indicated on every container of the liquor product or class of liquor product concerned, or on a specified label on any such container;
 - (p) determine the fees, levies or charges payable in respect of services rendered or approvals required in terms of such scheme, or authorize the Authority to determine such fees, levies or charges;
 - (q) determine that the rendering of any service in terms of such scheme may be refused to a person who is indebted to the Authority in any amount in respect of fees, levies or charges referred to in paragraph (p);
 - (r) determine that any person who refuses or fails to comply with any provision of such scheme or a condition determined thereunder, may be fully or partially excluded by the Authority from further participation in such scheme;
 - (s) provide generally for any other matter which, subject to the provisions of this Act, in the opinion of the Minister is necessary or expedient in order to further or better achieve the objects of such scheme, the generality of the power conferred by this paragraph not being limited by the preceding paragraphs of this subsection.
- (2) (a) The definition of a particular area or piece of land under a particular name in terms of section 22 of the Wine, Other Fermented Beverages and Spirits Act, 1957 (Act No. 25 of 1957), and which is in force immediately prior to the repeal of that section, shall remain in force, and shall, if it is in force immediately prior to the establishment of a scheme for wine, when such a scheme for wine is established, be deemed to be the definition of that area or piece of land by virtue of provision included in such scheme in terms of subsection (1) (d).
- (b) Any other act performed in terms of the regulations under the Wine, Other Fermented Beverages and Spirits Act, 1957, with regard to wine and in respect of which an authority referred to in subsection (1) (c) could have been granted if a scheme for wine was established before the act concerned was performed, shall on

the repeal of the empowering provision in respect of such regulations remain in force, and shall, when such scheme for wine is established, be deemed to be an act performed in terms of the relevant scheme.

16. Restriction on the importation of certain alcoholic products

- (1) (a) No person shall import any product with an alcohol content of more than 0.5 per cent into the Republic for drinking purposes, except on the authority of an import certificate issued by the administering officer.
- (b) The provisions of paragraph (a) shall not apply to -
 - (i) medicine referred to in section 4 (2);
 - (ii) a product referred to in that paragraph that is imported by or for a Head of State, or by or for a diplomatic or other foreign representative referred to in Item 406.00 of Schedule 4 of the Customs and Excise Act, 1964 (Act No. 91 of 1964); and
 - (iii) a product referred to in that paragraph that is imported for a prescribed purpose, or of which a consignment does not exceed the prescribed volume.
- (2) An application for an import certificate shall be made in the prescribed manner, and the prescribed application fee shall be payable in respect thereof.
- (3) (a) Subject to paragraph (b) and the international obligations of the Republic, an import certificate shall be issued only if -
 - (i) the product concerned is wine, beer, traditional African beer, an alcoholic fruit beverage, other fermented beverages, a spirit, a grape-based liquor or a spirit-based liquor; and
 - (ii) in the case of a product imported in the containers in which it is to be sold in the Republic, the particulars on those containers and on the package of such containers comply with the applicable requirements of this Act.
- (b) An import certificate may also be issued in respect of a product other than a product referred to in paragraph (a) (i) if -
 - (i) that product does not contain a particular prescribed substance to a greater extent than prescribed;
 - (ii) that product is imported in the fully labelled containers in which it is to be sold in the Republic;
 - (iii) the labels on those containers comply with the applicable requirements of this Act; and
 - (iv)

- (4) (a) An import certificate shall be issued on the conditions determined by the administering officer.
- (b) The further disposal of a product that is imported in bulk shall be subject to compliance with the prescribed directions.
- (5) (a) A product that is imported into the Republic contrary to the provisions of subsection (1) or a condition determined under subsection (4) (a), or in respect of which the prescribed directions referred to in subsection (4) (b) have not been complied with, shall, at the option of the importer thereof -
 - (i) at the expense of such importer be removed by him or her from the Republic within such period as the administering officer may determine;
 - (ii) with the approval of the administering officer and subject to such conditions as he or she may determine, be treated or dealt with so that the product concerned thereafter complies with the applicable provisions of this Act; or
 - (iii) be forfeited to the State, and thereafter destroyed.
- (b) If an importer fails to remove such product from the Republic within the period determined in terms of paragraph (a) (i), or to comply with a condition determined in terms of paragraph (a) (ii), that product shall be forfeited to the State, and thereafter be destroyed.
- (c) The State may recover any expenses incurred by it in connection with the destruction of a product in terms of paragraph (a) (iii) or (b) from the importer concerned.
- (6) A certificate of removal issued in terms of section 27A of the Wine, Other Fermented Beverages and Spirits Act, 1957 (Act No. 25 of 1957), and in force immediately prior to the date of commencement of this section, shall be deemed to be an import certificate which has been issued in terms of this section.

17. Restriction on the exportation of liquor products

- (1) (a) No person shall export any product with an alcohol content of more than 0.5 percent for drinking purposes, except on the authority of an export certificate issued by the administering officer.
- (b) The provisions of paragraph (a) shall not apply to -
 - (i) medicine referred to in section 4 (2); and
 - (ii) a liquor product exported for a prescribed purpose or to a prescribed country, or of which a consignment does not exceed the prescribed volume.
- (2) An application for an export certificate shall be made in the prescribed manner, and the prescribed application fee shall be payable in respect thereof.
- (3) An export certificate shall only be issued if -

- (a) the product concerned is a liquor product or, in the case of another product, the exporter thereof satisfies the administering officer that such other product may be sold for drinking purposes in the country to which it is to be exported; and
 - (b) in the case of a liquor product derived from grapes and when required by regulation, the Authority has in the prescribed manner found the product concerned to be suitable for export.
- (4) The export of a product on the authority of an export certificate shall be subject to compliance with the prescribed directions.
 - (5) An export certificate issued in terms of the regulations made under the Wine, Other Fermented Beverages and Spirits Act, (Act No. 25 of 1957), and which is in force immediately prior to the date of commencement of this section, shall be deemed to be an export certificate issued in terms of this section.
 - (6) Notwithstanding the provisions of this section, the Minister may designate a juristic person, body of persons or institution to exercise the powers and carry out the duties referred to in this section, subject to the control and instructions of the administering officer.

18. Powers of entry, investigation and sampling

- (1) (a) The administering officer and an officer acting under a delegation or direction of the administering officer may, in the exercising or carrying out by him or her of any power or duty which is granted to or imposed upon the administering officer by or under this Act, at any reasonable time and without prior notice, enter upon any place, premises or conveyance -
 - (i) including a private dwelling, with the consent of the owner or person in charge of the place, premises or conveyance;
 - (ii) excluding a private dwelling, from which a person conducts or is on reasonable grounds suspected of conducting business falling under the provisions of this Act or a scheme;
 - (iii) which is a private dwelling, under authority of a warrant issued in terms of paragraph (d) or without a warrant in terms of paragraph (e).
- (b) The provisions of paragraph (a) shall in connection with the exercise of a function conferred on the Authority by or under this Act or in terms of a scheme, apply *mutatis mutandis* to -
 - (i) a person employed by the Authority;
 - (ii) any person with whom the Authority has entered into an agreement in terms of section 2 (10) (a) (v); and
 - (iii) any person employed by a person referred to in subparagraph (ii).

- (c) A person who enters upon any place, premises or conveyance in terms of this subsection shall show proof of his or her identity and authority and inform the person in charge of the place, premises or conveyance concerned of the purpose of the entry.
- (d) Where on application to a magistrate it appears to such magistrate from information on oath or affirmation that there are reasonable grounds to believe that -
 - (i) the conditions for entry described in subsection (1) (a) (ii) exist in relation to a private dwelling;
 - (ii) entry to that private dwelling is necessary for any purpose relating to the administration or enforcement of this Act; and
 - (iii) entry to the private dwelling has been refused or that entry thereto will be refused,

that magistrate may issue a warrant authorising the person named therein to enter that private dwelling subject to such conditions as may be specified in the warrant.

- (e) If a person referred to in subsection (1) believes on reasonable grounds that -
 - (i) a warrant would be issued to him or her under paragraph (d) if he or she applies for such a warrant; and
 - (ii) a delay in obtaining such warrant would defeat the object of the entry or investigation,

he or she may without a warrant enter such private dwelling for any purpose relating to the administration or enforcement of this Act.

- (2) A person referred to in subsection (1) may, when acting under that subsection -
 - (a) take with him or her such assistants, appliances, instruments, tools or other things as he or she may deem necessary for the relevant purpose;
 - (b) demand from the owner or person in charge of the place, premises or conveyance concerned all reasonable assistance that such person may deem necessary in order to enable him or her to exercise, carry out or perform his or her powers, duties or functions in connection with that place, premises or conveyance;
 - (c) examine or test any liquor product, material, substance or other article in respect of which this Act or scheme applies and which is, or which is suspected to be, produced, processed, treated, prepared, graded, classified, packed, marked, labelled, held, bottled, removed, transported, exhibited or sold there;
 - (d) inspect the operations or processes in connection with any action referred to in paragraph (c), and demand from the owner or custodian of the liquor product, material, substance or other article concerned, or from the person supervising such

operations or processes, any information or an explanation regarding the operation, process, liquor product, material, substance or other article concerned;

- (e) take such samples of the liquor product, material, substance or other article concerned as he or she may deem necessary, and for such purpose open any container in which that liquor product, material, substance or other article is contained; and
 - (f) examine and make copies of or take extracts from any book or document in respect of which he or she on reasonable grounds suspects that it relates to such product, material, substance or other article, irrespective of whether it is kept on or at the place, premises or conveyance concerned or at any other place, and demand from the owner or custodian of such book or document an explanation of any record or entry therein.
- (3) The provisions of subsection (2) (d) and (f) shall not be construed as authorizing a person referred to in subsection (1) to demand information by which he or she may acquire knowledge of any secret formula for the production or blending of a liquor product.
 - (4) A sample taken in terms of subsection (2) (e) shall with the least possible delay be submitted to an analyst for testing, examination or analysis.
 - (5) A person referred to in subsection (1) shall in respect of each sample taken of a liquor product contained in a labelled container, issue a receipt of sampling to the custodian of the product concerned.

19. Seizures

- (1) A person referred to in section 18(1) may at any reasonable time and in any manner deemed fit by him or her, without prior notice to any person, seize any liquor product, material, substance or other article, or any book or document, that -
 - (a) is concerned or is on reasonable grounds believed by him or her to be concerned in the commission or suspected commission of any offence under this Act;
 - (b) may afford evidence of the commission or suspected commission of any such offence; or
 - (c) is intended or is on reasonable grounds believed by him or her to be intended to be used in the commission of any such offence.
- (2) Such person may remove any quantity of a liquor product, material, substance or other article, or any book or document, so seized, from the place, premises or conveyance where he or she seized it, or leave it thereon and, if he or she deems it necessary, attach such identification mark or seal as he or she may deem necessary on such liquor product, material, substance or other article or the container thereof, or on such book or document.
- (3) (a) The administering officer or the Authority, as the case may be, may -

- (i) grant authority that a liquor product, material, substance or other article seized in terms of subsection (1), may within the period and in the manner specified in such authorization, be treated or dealt with;
 - (ii) if the said officer or the Authority is satisfied that the cause for the seizure concerned has been removed by such treatment or action, return the liquor product, material, substance or other article to the person from whom it was seized.
- (b) If no criminal proceedings are instituted in connection with a liquor product, material, substance or other article seized in terms of subsection (1), or if it appears that such liquor product, material, substance or other article is not required at the trial for purposes of evidence or an order of court, that liquor product, material, substance or other article shall be returned to the person from whom it was seized.
 - (c) Notwithstanding the provisions of paragraph (b), at the option of the person from whom such a liquor product, material, substance or other article was seized, the administering officer or Authority, as the case may be, may direct that such liquor product, material, substance or other article be destroyed by and at the expense of that person within such period as the administering officer or the Authority, as the case may be, may reasonably determine.
 - (d) If the person from whom such liquor product, material, substance or other article was seized, fails to destroy that liquor product, material, substance or other article within the period determined in terms of paragraph (c), that liquor product, material, substance or other article shall be forfeited to the State, and thereafter be destroyed.
 - (e) The State may recover any expenses incurred by it in connection with the destruction of a liquor product, material, substance or other article in terms of paragraph (d) from the person from whom such a liquor product, material, substance or other article was seized.

20. Analysis of samples

- (1) (a) The Director-General may designate a person qualified by technical training, possessing adequate knowledge, skill and experience, and having adequate facilities at his or her disposal, as an analyst for the purposes of the provisions of this Act or a scheme.
 - (b) The Director-General may designate an institution having adequate facilities and suitably qualified, skilled and experienced personnel, as an analyst for the purposes of the provisions of this Act or a scheme.
- (2) Each sample submitted to an analyst in terms of section 18(4) shall be tested, examined or analysed in accordance with the prescribed methods.
 - (3) An analyst shall -

- (a) record the results of such test, examination or analysis on a certificate determined for this purpose by the administering officer or the Authority, as the case may be; and
 - (b) furnish the original of such certificate to the person referred to in section 18 (1) by whom the sample concerned was taken.
- (4) No person shall use a certificate referred to in subsection (3), or any results recorded on such certificate, in any manner whatsoever for the purposes of any advertisement.

21. Secrecy

- (1) No person shall, except for the purpose of the performance of his or her functions under this Act or a scheme, or for the purpose of legal proceedings under this Act, or when required to do so by any competent court or under any law, or with the written consent of the Minister, disclose to any other person any information acquired by him or her in the performance of his or her functions under this Act or a scheme and which relates to the business or affairs of any person, or use such information for self-gain or for the benefit of his or her employer.
- (2) No person shall, except with the written consent of the Minister, give access to any person other than a person referred to in section 18 (1) or a person entitled thereto in terms of any law, to any records or registers kept in terms of this Act or a scheme.

22. Appeals

- (1) Any person whose interests are affected by any decision or direction of the administering officer or the Authority under this Act or a scheme, may appeal against such decision or direction to an appeal Authority appointed by the Director-General for this purpose.
- (2) Such appeal shall be lodged in the prescribed manner within the prescribed period, and the prescribed amount shall be payable in respect thereof.
- (3) (a) An appeal Authority referred to in subsection (1), shall consist of -
- (i) a person appointed by reason of his or her knowledge of the law, and who shall act as chairperson of the appeal Authority; and
 - (ii) two persons respectively nominated in the prescribed manner by the appellant and the administering officer or the Authority, as the case may be.
- (b) An appellant, a person employed by the appellant, the administering officer, an officer performing his or her functions under the control of the administering officer, a member or an alternate member of the Authority, a member of a committee of the Authority and a person referred to in section 2 (10) (b) shall not be appointed as a member of an appeal Authority.
- (4) All the members of an appeal Authority shall constitute a quorum for any meeting of the appeal Authority, and a decision of the majority of the members thereof shall be a decision of the appeal Authority.

- (5) There may be paid to a member of an appeal Authority who is not in the full-time employment of the State, from moneys appropriated by Parliament for this purpose, such remuneration or allowances as may be determined by the Minister, with the concurrence of the Minister of Finance, in general or in any particular case.
- (6) Such appeal Authority may -
 - (a) confirm, set aside or amend the decision or direction which is the subject of the appeal;
 - (b) refer the relevant matter back to the Authority or the administering officer for reconsideration; or
 - (c) make such order in connection therewith as it may deem fit.
- (7) The administering officer or the Authority, as the case may be, shall be bound by a decision of an appeal Authority.
- (8) The decision of an appeal Authority together with the reasons therefor shall be in writing, and copies thereof shall be furnished to the Director-General, the appellant and the administering officer or the Authority, as the case may be.
- (9) If the decision or direction which is the subject of an appeal -
 - (a) is set aside, the amount referred to in subsection (2) shall be refunded to the appellant concerned;
 - (b) is amended, or is referred back to the administering officer or the Authority for reconsideration, such portion of the amount referred to in subsection (2) as the appeal Authority concerned may determine, shall be refunded to the appellant concerned.

23. Offences and penalties

- (1) Any person who -
 - (a) contravenes or fails to comply with a provision of section 4(1), 5(3)(a), 6(3)(a), 6A(3)(a), 6B(3)(a), 6C(3)(a), 7(3)(a), 8(3)(a), 9(3)(a), 11(1), (2) or (3), 12(1), 16(1)(a), 17(1)(a) or 21(1) or (2);
 - (b) contravenes or fails to comply with a provision of section 5 (3) (b), 6 (3) (b), 6A (3) (b), 6B (3) (b), 6C (3) (b), 7 (3) (b), 8 (3) (b), 9 (3) (b) or 20 (4);
 - (c) contravenes or fails to comply with a condition, restriction, prohibition, reservation or direction imposed under section 11 (4) or (5) (b), 13A (1), 16 (4) or (5), 17 (4) or 28 (3) (a);
 - (d) after his or her application for participation in a scheme has been approved, refuses or fails to comply with the provisions of that scheme or a condition determined in terms thereof;

- (e) obstructs or hinders a person referred to in section 18 (1) in the exercise of his or her powers or the carrying out of his or her duties under this Act or a scheme;
- (f) refuses or fails to render the reasonable assistance that a person referred to in section 18 (1) demands from him or her in terms of section 18 (2) (b) in the exercising of his or her powers or the carrying out of his or her duties under this Act or a scheme;
- (g) refuses or fails without sufficient cause to furnish information or give an explanation or to answer to the best of his or her ability to a question lawfully demanded from or put to him or her by a person referred to in section 18 (1) in the exercising of his or her powers or the carrying out of his or her duties under this Act or a scheme, or furnishes information, an explanation or an answer to such person which is false or misleading, knowing that it is false or misleading;
- (h) tampers with a sample taken in terms of section 18 (2) (e), or the identification or seal of such sample;
- (i) sells, removes or tampers with a liquor product, material, substance or other article, or a book or document seized in terms of section 19, or tampers with an identification mark or other seal attached thereto in terms of that section;
- (j) falsely holds himself or herself out to be an analyst;
- (k) effects any unauthorized alteration, deletion or entry on any certificate which has been issued in terms of this Act,

shall be guilty of an offence.

(2) Any person who is convicted of an offence under this Act shall -

- (a) on a first conviction of an offence referred to in paragraph (a), (c), (d), (e), (f) or (g) of subsection (1), be liable to a fine or to imprisonment for a period not less than two years or to both a fine and such imprisonment;
- (b) on a second or subsequent conviction of an offence mentioned in paragraph (a), whether it be the same offence or some other offence mentioned in that paragraph, be liable to a fine or to imprisonment for a period not less than four years or to both a fine and such imprisonment;
- (c) on a first conviction of an offence referred to in paragraph (b), (h), (i), (j) or (k) of subsection (1), be liable to a fine or to imprisonment for a period not less than six months or to both a fine and such imprisonment; and
- (d) on a second or subsequent conviction of an offence mentioned in paragraph (c), whether it be the same offence or some other offence mentioned in that paragraph, be liable to a fine or to imprisonment for a period not less than one year or to both a fine and such imprisonment.

24. Presumptions and evidence

In any prosecution under this Act -

- (a) it shall be presumed, in the absence of evidence to the contrary that raises a reasonable doubt, that the applicable provisions of this Act or a scheme apply to the product in respect of which the offence concerned has allegedly been committed;
- (b) any quantity of a liquor product, material, substance or other article in or upon any place, premises or conveyance when a sample thereof is taken in accordance with the provisions of this Act shall, in the absence of evidence to the contrary that raises a reasonable doubt, be deemed to be of the same composition as that sample, and to possess in all other respects the same properties as that sample;
- (c) a certificate referred to in section 20 (3) in which the result of a test, examination or analysis carried out in terms of section 20 (2) is recorded, and which purports to be signed by the analyst who carried out that test, examination or analysis, shall be accepted as *prima facie* proof of the facts mentioned therein;
- (d) any statement or entry contained in any book or document kept by any person or the manager, agent or employee of such person, or found in or upon any place or premises occupied by, or any vehicle used in the business of, such person, shall be admissible in evidence against him or her as an admission of the facts set forth in that statement or entry, unless evidence to the contrary that raises a reasonable doubt is adduced that such statement or entry was not made by such person, or by the manager, agent or employee of such person in the course of his or her work as manager or in the course of his or her agency or employment; and
- (e) it shall be presumed, in the absence of evidence to the contrary that raises a reasonable doubt, that a permit, authorization, consent, approval, certificate or other document has not been issued, given or granted to any person who in terms of this Act or a scheme is required to be in possession thereof.

25. Forfeitures

The court convicting any person of an offence under this Act shall, when requested thereto by the public prosecutor, in addition to any other penalty imposed in respect of that offence, order that a relevant quantity of a liquor product, material, substance or other article which is the subject of the charge against such person, be forfeited to the State, after which the property so forfeited shall be destroyed.

26. Vicarious liability

- (1) When a manager, representative, agent, employee or member of the family of a person (in this section called the principal) does or omits to do any act, and it would be an offence under this Act for the principal to do or omit to do such act himself or herself, that principal shall be deemed himself or herself to have done or omitted to do the act, unless he or she satisfies the court that there is a reasonable possibility that -
 - (a) he or she neither connived at nor permitted the act or omission by the manager, representative, agent, employee or member concerned;

- (b) he or she took all reasonable steps to prevent the act or omission; and
- (c) an act or omission, whether lawful or unlawful, of the nature charged, on no condition or under no circumstance fell within the scope of the authority or employment of the manager, representative, agent, employee or member concerned,

and the fact that such principal issued instructions whereby an act or omission of that nature is prohibited, shall in itself not constitute a reasonable possibility that he or she took all reasonable steps to prevent the act or omission.

- (2) When a principal is by virtue of subsection (1) liable for an act or omission by a manager, representative, agent, employee or member of his or her family, that manager, representative, agent, employee or member shall also be liable therefor as if he or she were the principal concerned.
- (3) The provisions of subsection (2) shall not release a manager, representative, agent, employee or member contemplated in that subsection from any other liability which he or she may have incurred apart from the liability which he or she shares with the principal concerned.
- (4) In the application of this section in any prosecution, evidence that any article was at the time of the act or omission charged, in the possession or under the custody, supervision, control or care of any manager, representative, agent, employee or member of the family of the principal, shall be *prima facie* proof that the principal concerned is the owner of the article concerned.

27. Regulations

- (1) The Minister may make regulations regarding -
 - (a) any matter which in terms of this Act is required or permitted to be prescribed;
 - (b) control of the receipt, keeping and use of particular substances which are or may be used, or shall not be used, in connection with the production of liquor products, at premises where the liquor products are produced;
 - (c) the designation of a person charged with the application of this Act, and regarding different such designations in relation to different provisions of this Act;
 - (d) processes which shall or may be applied in the production of liquor products;
 - (e) requirements for raw materials that may be used in or in connection with the production of a liquor product, and control which is to be exercised over such raw materials;
 - (f) methods and procedures in connection with the taking of samples;
 - (g) the registration of particulars in respect of persons for the purposes of section 11 (1);

- (h) the procedure at proceedings of an appeal Authority referred to in section 22;
- (i) prohibited practices in connection with the indication of particulars on containers in which liquor products are sold, and in connection with the use of certain particulars in connection with the sale of liquor products;
- (j) the keeping of records and the furnishing of returns in connection with the production and sale of liquor products;
- (k) the fees payable in respect of anything done under this Act, or which is required to be so done;
- (l) the permissible tolerances with regard to prescribed requirements, specifications or other directions;
- (m) the calibration, gauging and marking of tanks, casks and other receptacles used in the production and storage of liquor products;
- (n) the circumstances and conditions under which the administering officer or the Authority, as the case may be, may allow for a relaxation of a requirement in terms of a regulation or a scheme;
- (o) the compulsory registration of persons as producers, blenders or fillers of liquor products;
- (p) standards for and the type of container and packaging in which a liquor product or class of liquor product shall or may be contained or sold, as well as the minimum or maximum capacity of such a container,

and, generally, with regard to any matter which he or she considers it necessary or expedient to prescribe in order to achieve or to promote the objects of this Act, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.

- (2) Different regulations which differ in the respects deemed expedient by the Minister, may, subject to the provisions of this Act, be made under this section, in relation to different areas in the Republic or of different liquor products or classes thereof.
- (3) A regulation may for any contravention thereof or failure to comply therewith, prescribe a penalty of a fine or imprisonment for a period of 12 months or both that fine and that imprisonment.
- (4) A regulation prescribing fees shall be made with the concurrence of the Minister of Finance.
- (5) The Minister must table regulations made in terms of this Act to Parliament for consideration.

28. Discretionary powers

- (1) When the administering officer or the Authority considers any application or request made under or by virtue of this Act or a scheme, he or she or the Authority may make any investigation or inquiry in connection therewith which may be deemed necessary, and for the purposes of such investigation or inquiry demand that such documents, information or samples as may be specified, be submitted to him or her or the Authority.
- (2) Whenever a regulation or a scheme specifies any period within which anything is to be done or performed, the administering officer or the Authority, as the case may be, may extend the period concerned, either before or after the period has expired.
- (3) Any approval, authorization or consent given or granted under or by virtue of this Act or a scheme may, except where expressly provided otherwise -
 - (a) be made subject to such conditions as the administering officer or the Authority, as the case may be, may in each case determine; and
 - (b) be amended or withdrawn by the administering officer or the Authority, as the case may be, if he or she deems it expedient.
- (4) If the administering officer or the Authority, by virtue of a power vested in him or her or the Authority by or under this Act or a scheme -
 - (a) refuses to approve an application or a request which was submitted to him or her in writing; or
 - (b) amends or withdraws an approval, authorization or consent as contemplated in subsection (3) (b),

he or she shall notify the applicant concerned in writing of his or her decision and of the grounds on which it is based.

29. Delegation of powers

- (1) The Minister may, subject to such conditions as he or she may impose, in writing delegate any power conferred on him or her by this Act, excluding a power referred to in sections 14 and 27, to an officer employed by the department, but shall not be divested of any power so delegated and may set aside or amend any decision of the delegate made in the exercise of such a power.
- (2) The Director-General may, subject to such conditions as he or she may impose, in writing delegate any power conferred on him or her by this Act to an officer employed by the department, but shall not be divested of any power so delegated and may set aside or amend any decision of the delegate made in the exercise of such a power.

30. Defects in form

A defect in the form of any document which in terms of any law is required to be executed in a particular manner, or in a document issued in terms of this Act or a scheme, shall, if the document substantially complies with the applicable legal requirements, not render unlawful any administrative act performed in terms of this Act or a scheme in respect of the matter to

which such document relates, and shall not be a ground for exception to any legal procedure which may be taken in respect of such matter.

31. Limitation of liability

No person, including the State, shall be liable in respect of anything done or omitted in good faith in the exercise of a power or the carrying out of a duty or the performance of a function under or by virtue of this Act or a scheme, or in the rendering of any service in terms of this Act or a scheme, or in respect of anything that may result therefrom.

32. Repeal and amendment of laws

Subject to the provisions of sections 2 (8) (c) and (10) (c), 10 (5) (a), 11 (4) (b), 15 (2), 16 (6), 17 (5) and 20 (1) (b), the laws mentioned in the Schedule are hereby repealed or amended to the extent indicated in the third column thereof.

33. Short title and commencement

- (1) This Act shall be called the Liquor Products Act, 1989, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.
- (2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.

Schedule

LAWS REPEALED OR AMENDED

(Section 32)

No. and year of law	Short title	Extent of repeal or amendment
Act No. 14 of 1921	Restriction on the Importation of Wine and Spirits Act, 1921	The repeal of the whole.
Act No. 25 of 1957	Wine, Other Fermented Beverages and Spirits Act, 1957	The repeal of the whole.
Act No. 91 of 1964	Customs and Excise Act, 1964	<p>1 . The amendment of section 1- (a) by the deletion in subsection (1) of the definition of “Government Brandy Authority”; and (b) by the insertion in subsection (1) after the definition of “vehicle” of the following definition: “Wine and Spirit Authority” means the Authority referred to in section 2 of the Liquor Products Act, 1989.”.</p> <p>2. The amendment of section 30 by the substitution in subsection (1) for the expression “Government Brandy Authority”, where it appears in the words preceding the proviso, of the expression “Wine and Spirit</p>

		Authority”.
Act No. 50 of 1966	Wine, Spirits and Vinegar Amendment Act, 1966	The repeal of the whole.
Act No. 30 of 1968	Wine, Other Fermented Beverages and Spirits Amendment Act, 1968	The repeal of the whole.
Act No. 47 of 1970	Wine and Spirit Control Act, 1970
Act No. 62 of 1970	Wine, Other Fermented Beverages and Spirits Amendment Act, 1970	The repeal of the whole.
Act No. 62 of 1972	Wine, Other Fermented Beverages and Spirits Amendment Act, 1972	The repeal of the whole.
Act No. 75 of 1974	Wine, Other Fermented Beverages and Spirits Amendment Act, 1974	The repeal of the whole.
Act No. 68 of 1976	Wine, Other Fermented Beverages and Spirits Amendment Act, 1976	The repeal of the whole.
Act No. 7 of 1980	Wine, Other Fermented Beverages and Spirits Amendment Act, 1980	The repeal of the whole.
Act No. 87 of 1980	Wine and Spirits Amendment Act, 1980	The repeal of sections 13 and 14.
Act No. 63 of 1984	Wine and Spirits Amendment Act, 1984	The repeal of sections 6 to 10, inclusive.
Act No. 97 of 1986	Transfer of Powers and Duties of the State President Act, 1986	The repeal in the First Schedule of the item relating to the Restriction on the Importation of Wine and Spirits Act, 1921 (Act No. 14 of 1921), and in the Second Schedule of the item relating to the Wine, Other Fermented Beverages and Spirits Act, 1957 (Act No. 25 of 1957).
Act No. 36 of 1988	Wine and Spirit Amendment Act, 1988	The repeal of sections 12 and 13.
Act No. 27 of 1989	Liquor Act