



REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

Verkoopprys • Selling price
(AVB uitgesluit/GST excluded)
Plaaslik **70c** Local
Buitelands R1,00 Other countries
Posvry • Post free

VOL. 301

KAAPSTAD, 4 JULIE 1990

CAPE TOWN, 4 JULY 1990

No. 12586

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1462.

4 Julie 1990

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 87 van 1990: Wysigingswet op Beheer oor Wyn en Spiritus, 1990.

No. 1462.

4 July 1990

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 87 of 1990: Wine and Spirit Control Amendment Act, 1990.

Wet No. 87, 1990

WYSIGINGSWET OP BEHEER OOR WYN EN SPIRITUS, 1990

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Beheer oor Wyn en Spiritus, 1970, ten einde sekere uitdrukkings te omskryf, nader te omskryf of te skrap; die verpligting om sekere voorgestelde reëlins wat aan Ministeriële goedkeuring onderworpe is, vir kommentaar te publiseer, aan die vereniging oor te dra; sekere vereistes met betrekking tot spiritus af te skaf; die verbod op die gebruik van sekere persele vir sekere doeleindes tensy by die vereniging geregistreer, uit te brei; die bevoegdheid van die vereniging om drankprodukte te verkoop, nader te omskryf; die bevoegdheid van die vereniging om minimum pryse vir en betalingsreëlins in verband met wyn te bepaal, verder te reël; sekere bevoegdhede betreffende die bepaling van die hydrae deur wynboere en koöperatiewe verenigings tot die vervoer van wyn, aan die vereniging oor te dra; 'n nuwe grondslag in te stel vir die bepaling van die prys van en heffing op druiwe, wyn en ander produkte vervaardig van druiwe; die bevoegdheid van die Minister om regulasies uit te vaardig, uit te brei; sekere bevoegdhede van die vereniging nader te omskryf; vrystellings van die Drankwet, 1989, verder te reël; sekere bepalings wat in onbruik geraak het, te herroep; die aanwending van inkomste uit heffings verder te reël; magtiging te verleen vir die voorskryf van alternatiewe instrumente en metodes vir gebruik in verband met sekere bepalings; bepalings met betrekking tot misdrywe en strawwe saam te vat; strawwe te verhoog; die middellike aanspreeklikheid van sekere persone te reël; vir sekere vermoedens by vervolgings voorsiening te maak; en die bepaling te skrap wat voorsiening maak vir die toepassing van genoemde Wet in Suidwes-Afrika; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 21 Junie 1990.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 47 van 1970, soos gewysig deur artikel 1 van Wet 70 van 1972, artikel 1 van Wet 74 van 1974, artikel 1 van Wet 87 van 1980, artikel 1 van Wet 44 van 1983, artikel 1 van Wet 36 van 1988 en artikel 32 van Wet 60 van 1989 5

1. Artikel 1 van die Wet op Beheer oor Wyn en Spiritus, 1970 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) deur die omskrywings van “druifspiritus”, “jenewer”, “likeur” en “wodka” te skrap;
- (b) deur na die omskrywing van “distilleerder” die volgende omskrywing in te voeg: 10
“‘drankprodukt’ ’n drankprodukt soos omskryf in artikel 1 van die Wet op Drankprodukte, 1989 (Wet No. 60 van 1989);”; en
- (c) deur die omskrywing van “menger” deur die volgende omskrywing te vervang: 15

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Wine and Spirit Control Act, 1970, so as to define, further define or delete certain expressions; to transfer to the vereniging the obligation to publish for comment certain proposed arrangements that are subject to Ministerial approval; to abolish certain requirements in regard to spirit; to extend the prohibition on the use of certain premises for certain purposes unless registered with the vereniging; to further define the power of the vereniging to sell liquor products; to further regulate the power of the vereniging to determine minimum prices for and payment arrangements in connection with wine; to transfer to the vereniging certain powers relating to the determination of the contribution by winegrowers and co-operative societies to the transporting of wine; to establish a new basis for the determination of the price of and levy on grapes, wine and other products manufactured from grapes; to extend the power of the Minister to make regulations; to further define certain powers of the vereniging; to further regulate exemptions from the Liquor Act, 1989; to repeal certain provisions that have become obsolete; to further regulate the utilization of revenue from levies; to empower the prescribing of alternative instruments and methods for use in connection with certain determinations; to consolidate provisions in connection with offences and penalties; to increase penalties; to regulate the vicarious liability of certain persons; to provide for certain presumptions in prosecutions; and to delete the provision providing for the application of the said Act in South West Africa; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 21 June 1990.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 47 of 1970, as amended by section 1 of Act 70 of 1972,
 section 1 of Act 74 of 1974, section 1 of Act 87 of 1980, section 1 of Act 44 of 1983,
 5 section 1 of Act 36 of 1988 and section 32 of Act 60 of 1989

1. Section 1 of the Wine and Spirit Control Act, 1970 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution for the definition of “blender” of the following definition:
 - 10 “‘blender’ means a person approved and registered by the **[Secretary]**
Commissioner for Customs and Excise as a blender of brandy and wine
 spirit;”;
 - (b) by the deletion of the definitions of “gin”, “grape spirit”, “liqueur” and
 “vodka”; and
 - 15 (c) by the insertion after the definition of “distiller” of the following definition:

Wet No. 87, 1990

WYSIGINGSWET OP BEHEER OOR WYN EN SPIRITUS, 1990

“‘menger’ iemand wat deur die **[Sekretaris]** Kommissaris van Doeane en Aksyns as ‘n menger van brandewyn en wynspiritus goedgekeur en geregistreer is;”.

Wysiging van artikel 2 van Wet 47 van 1970, soos gewysig deur artikel 1 van Wet 47 van 1978 en artikel 2 van Wet 44 van 1983

5

2. Artikel 2 van die Hoofwet word hierby gewysig deur subartikel (8) te skrap.

Wysiging van artikel 2A van Wet 47 van 1970, soos ingevoeg deur artikel 3 van Wet 74 van 1974

3. Artikel 2A van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

10

“(1) Geen groothandelaar of distilleerder **[of koöperatiewe vereniging]** wat wyn van ‘n wynboer of koöperatiewe vereniging ontvang, en geen wynboer of koöperatiewe vereniging mag enige perseel gebruik vir die ontvangs, vervaardiging of opberging van wyn vir die doeleindes van distillering of omsetting in spiritus nie, tensy daardie perseel by die vereniging geregistreer is.”.

15

Wysiging van artikel 3 van Wet 47 van 1970, soos gewysig deur artikel 2 van Wet 70 van 1972, artikel 1 van Wet 26 van 1975, artikel 3 van Wet 44 van 1983 en artikel 2 van Wet 36 van 1988

4. Artikel 3 van die Hoofwet word hierby gewysig—

(a) deur in die voorbehoudsbepaling by paragraaf (b) van subartikel (3) die 20 woord “Rhodesië” deur die woord “Zimbabwe” te vervang;

(b) deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:

“(a) enigeen van sy lede vir sy private gebruik, in ruil vir wyn bestem vir distilleringsdoeleindes, of wyn soos in artikel 14 omskryf, wat deur 25 daardie lid geproduseer is op grond ten opsigte waarvan ‘n permit ingevolge artikel 2 (1) (a) aan die lid uitgereik is, en aan die vereniging gelewer is, ‘n hoeveelheid **[brandewyn, jenewer, likeur, druifspiritus en wodka]** ander drankprodukte as wyn verskaf wat in die geheel, tesame met ‘n hoeveelheid wyn wat gedurende daardie jaar kragtens artikel 17 (2) (a) aan daardie lid verskaf is, gelyk staan met hoogstens 40 liter absolute alkohol;”;

(c) deur paragraaf (c) van subartikel (4) deur die volgende paragraaf te vervang:

“(c) enigeen van sy werknemers of direkteure **[brandewyn, jenewer, likeur, 35 druifspiritus en wodka]** vir sy private gebruik ander drankprodukte as wyn verkoop.”; en

(d) deur subartikel (6) te skrap.

Wysiging van artikel 5 van Wet 47 van 1970, soos gewysig deur artikel 4 van Wet 74 van 1974

40

5. Artikel 5 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

“(b) Die vereniging moet—

(i) voor of op die twintigste Januarie van elke jaar ‘n skriftelike staat 45 aan die Minister voorlê waarin die minimum prys en enige tydperk, rente, gelde of omstandighede wat die vereniging ingevolge paragraaf (a) ten opsigte van daardie jaar wil bepaal, aangegee word; en

(ii) **[die Minister moet, by ontvangs van sodanige staat] so spoedig 50 moontlik daarna by kennisgewing in die Staatskoerant besonderhede daarvan bekend maak en alle belanghebbendes aansê om besware wat hulle teen die in die kennisgewing vermelde minimum prys, tydperk, rente, gelde of omstandighede het, binne ‘n**

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

“‘liquor product’ means a liquor product as defined in section 1 of the Liquor Products Act, 1989 (Act No. 60 of 1989);”.

Amendment of section 2 of Act 47 of 1970, as amended by section 1 of Act 47 of 1978 and section 2 of Act 44 of 1983

- 5 2. Section 2 of the principal Act is hereby amended by the deletion of subsection (8).

Amendment of section 2A of Act 47 of 1970, as inserted by section 3 of Act 74 of 1974

3. Section 2A of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- 10 “(1) No wholesale trader or distiller **[or co-operative society]** who receives wine from a winegrower or co-operative society, and no winegrower or co-operative society shall use any premises for the receipt, manufacture or storage of wine for purposes of distillation or conversion into spirit, unless those premises are registered with the vereniging.”.

15 **Amendment of section 3 of Act 47 of 1970, as amended by section 2 of Act 70 of 1972, section 1 of Act 26 of 1975, section 3 of Act 44 of 1983 and section 2 of Act 36 of 1988**

4. Section 3 of the principal Act is hereby amended—

- (a) by the substitution in the proviso to paragraph (b) of subsection (3) for the word “Rhodesia” of the word “Zimbabwe”;
- 20 (b) by the substitution for paragraph (a) of subsection (4) of the following paragraph:
- “*(a)* supply to any of its members for his private use, in exchange for wine intended for distillation purposes, or wine as defined in section 14, produced by that member on land in respect of which a permit has been issued to the member in terms of section 2 (1) (a), and delivered to the vereniging, such quantity of **[brandy, gin, liqueur, grape spirit and vodka]** liquor products, other than wine, as in the aggregate, together with any quantity of wine supplied to that member during that year under section 17 (2) (a), is equivalent to not more than 40 litres of absolute alcohol;”;
- 25 (c) by the substitution for paragraph (c) of subsection (4) of the following paragraph:
- “*(c)* sell to any of its employees or directors **[brandy, gin, liqueur, grape spirit and vodka]** for his private use liquor products, other than wine.”; and
- 30 (d) by the deletion of subsection (6).
- 35

Amendment of section 5 of Act 47 of 1970, as amended by section 4 of Act 74 of 1974

5. Section 5 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:
- 40 “(b) The vereniging shall—
- (i) on or before the twentieth January of each year submit to the Minister a statement in writing setting forth the minimum price and any period, interest, charges or circumstances it desires to determine in terms of paragraph (a) in respect of that year; and
- 45 (ii) **[the Minister shall upon receipt of such statement]** as soon as possible thereafter by notice in the *Gazette* publish particulars thereof and call upon all interested persons to lodge with **[him]** the Minister in writing, within a period of fourteen days from the date of such notice, any objections which they may have to the
- 50

Wet No. 87, 1990

WYSIGINGSWET OP BEHEER OOR WYN EN SPIRITUS, 1990

tydperk van veertien dae vanaf die datum van sodanige kennisgewing, skriftelik by [hom] die Minister in te lewer.”;

- (b) deur paragraaf (d) van subartikel (1) deur die volgende paragraaf te vervang:

“(d) Enige [minimum prys, tydperk, rente, gelde of omstandighede wat] goedkeuring ingevolge hierdie subartikel [met die goedkeuring van] deur die Minister [aldus bepaal is], word onverwyld deur die Minister by kennisgewing in die *Staatskoerant* bekend gemaak.”;

- (c) deur die volgende paragraaf by subartikel (1) te voeg:

“(e) Verskillende minimum pryse kan ingevolge paragraaf (a) vasgestel word ten opsigte van verskillende gebiede of verskillende klasse, tipes of grade wyn of verskillende druifcultivars of na gelang die wyn vir verskillende doeleindes bestem is.”; en

- (d) deur subartikel (7) te skrap.

Wysiging van artikel 5A van Wet 47 van 1970, soos ingevoeg deur artikel 5 van Wet 74 van 1974

6. Artikel 5A van die Hoofwet word hierby gewysig deur subartikel (3) te skrap.

Wysiging van artikel 6 van Wet 47 van 1970, soos gewysig deur artikel 6 van Wet 74 van 1974

7. Artikel 6 van die Hoofwet word hierby gewysig deur subartikel (3) te skrap.

Wysiging van artikel 9 van Wet 47 van 1970, soos vervang deur artikel 2 van Wet 87 van 1980 en gewysig deur artikel 32 van Wet 60 van 1989

8. Artikel 9 van die Hoofwet word hierby gewysig—

- (a) deur subparagrafe (ii) en (iii) van paragraaf (e) van subartikel (1) deur die volgende subparagraaf te vervang:

“(ii) wat deur die Wyn- en Spiritusraad goedgekeur is en deur hom as spiritus uitsluitlik van wyn vervaardig, gesertifiseer is; [en

(iii) waarby geen kleurstof gevoeg is nie;] of”; en

- (b) deur subartikel (3) te skrap.

Wysiging van artikel 11 van Wet 47 van 1970, soos vervang deur artikel 9 van Wet 74 van 1974

9. Artikel 11 van die Hoofwet word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Regulasies kragtens subartikel (1) uitgevaardig, kan ’n boete van hoogstens [tweehonderd] tweeduisend rand of gevangenisstraf vir ’n tydperk van hoogstens ses maande of sowel sodanige boete as sodanige gevangenisstraf voorskryf as strawwe vir ’n oortreding daarvan of versuim om daaraan te voldoen.”.

Herroeping van artikel 12 van Wet 47 van 1970, soos gewysig deur artikel 10 van Wet 74 van 1974

10. Artikel 12 van die Hoofwet word hierby herroep.

Wysiging van artikel 14 van Wet 47 van 1970, soos gewysig deur artikel 4 van Wet 70 van 1972, artikel 11 van Wet 74 van 1974, artikel 3 van Wet 87 van 1980 en artikel 3 van Wet 36 van 1988

11. Artikel 14 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1) voor die omskrywing van “groothandelshoeveelheid” die volgende omskrywing in te voeg:

“‘botteleerder’ iemand wat die filtrasie, stabilisasie of bottelering van wyn of enige soortgelyke diens uitvoer, bewerkstellig of bedryf, maar nie ook nie—

- (i) iemand wat gelisensieer is om in drank handel te dryf;

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

minimum price, period, interest, charges or circumstances specified in the notice.”;

- (b) by the substitution for paragraph (d) of subsection (1) of the following paragraph:

5 “(d) Any **[minimum price, period, interest, charges or circumstances so determined with the]** approval **[of]** by the Minister in terms of this subsection shall forthwith be made known by the Minister by notice in the *Gazette*.”;

- (c) by the addition to subsection (1) of the following paragraph:

10 “(e) Different minimum prices may be determined in terms of paragraph (a) in respect of different areas or different classes, types or grades of wine or different grape cultivars, or according as the wine is intended for different purposes.”; and

- (d) by the deletion of subsection (7).

15 **Amendment of section 5A of Act 47 of 1970, as inserted by section 5 of Act 74 of 1974**

6. Section 5A of the principal Act is hereby amended by the deletion of subsection (3).

Amendment of section 6 of Act 47 of 1970, as amended by section 6 of Act 74 of 1974

- 20 7. Section 6 of the principal Act is hereby amended by the deletion of subsection (3).

Amendment of section 9 of Act 47 of 1970, as substituted by section 2 of Act 87 of 1980 and amended by section 32 of Act 60 of 1989

8. Section 9 of the principal Act is hereby amended—

- 25 (a) by the substitution for subparagraphs (ii) and (iii) of paragraph (e) of subsection (1) of the following subparagraph:

“(ii) which has been approved by the Wine and Spirit Board and certified by it to be spirit manufactured solely from wine; **[and (iii) to which no colouring-matter has been added;]** or”; and

- (b) by the deletion of subsection (3).

30 **Amendment of section 11 of Act 47 of 1970, as substituted by section 9 of Act 74 of 1974**

9. Section 11 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

35 “(4) Regulations made under subsection (1) may prescribe a fine not exceeding two **[hundred]** thousand rand or imprisonment for a period not exceeding six months or both such fine and such imprisonment, as penalties for any contravention thereof or failure to comply therewith.”.

Repeal of section 12 of Act 47 of 1970, as amended by section 10 of Act 74 of 1974

10. Section 12 of the principal Act is hereby repealed.

40 **Amendment of section 14 of Act 47 of 1970, as amended by section 4 of Act 70 of 1972, section 11 of Act 74 of 1974, section 3 of Act 87 of 1980 and section 3 of Act 36 of 1988**

11. Section 14 of the principal Act is hereby amended—

- (a) by the insertion in subsection (1), before the definition of “in bulk”, of the following definition:

45 ““bottler” means any person who conducts, effects or carries on the filtration, stabilization or bottling of wine or any similar service, but excluding—

- (i) a person licensed to deal in liquor;

Wet No. 87, 1990

WYSIGINGSWET OP BEHEER OOR WYN EN SPIRITUS, 1990

- (ii) 'n distilleerder;
- (iii) 'n wynboer; of
- (iv) 'n koöperatiewe vereniging;"; en
- (b) deur in genoemde subartikel (1) die omskrywing van "kwaliteitsprys" te skrap.

5

Wysiging van artikel 16 van Wet 47 van 1970, soos gewysig deur artikel 1 van Wet 69 van 1976, artikel 13 van Wet 74 van 1974, artikel 4 van Wet 44 van 1983 en artikel 4 van Wet 36 van 1988

12. Artikel 16 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (a) van subartikel (2A) deur die volgende paragraaf te 10 vervang:

“(a) Die vereniging—

- (i) kan op of voor die twintigste September in 'n bepaalde jaar skriftelik by die Minister aanbeveel dat hy 'n maksimum hoeveelheid druive vasstel wat persone wat gelisensieer is om in drank handel te dryf en distilleerders in totaal, maar uitgesonderd enige oorskryding bedoel in paragraaf (cA), van wynboere en koöperatiewe verenigings mag koop of verkry gedurende die jaar wat op die aanbeveling volg, en **[kan]** moet in sodanige aanbeveling 'n maksimum hoeveelheid vir dié doel voorstel; **[waarop die** 20 **Minister]** en

- (ii) moet so spoedig moontlik daarna by kennisgewing in die *Staatskoerant* besonderhede van die aanbeveling publiseer **[met inbegrip van die maksimum hoeveelheid deur die vereniging voorgestel]** en belanghebbendes aansê om binne 'n tydperk van 25 veertien dae vanaf die datum van die kennisgewing enige beswaar teen die aanvaarding van die aanbeveling **[of teen die maksimum hoeveelheid deur die vereniging voorgestel]** skriftelik by **[hom]** die Minister in te dien.”; en

- (b) deur paragraaf (cB) van subartikel (2A) deur die volgende paragraaf te 30 vervang:

“(cB) Iemand wat gelisensieer is om in drank handel te dryf of 'n distilleerder moet ten opsigte van enige gedeelte van 'n oorskryding bedoel in paragraaf (cA) deur hom, wat nie binne die tydperk bedoel in daardie paragraaf ooreenkomstig die bepalings van daardie paragraaf verreken kan word nie, 'n bedrag wat **[mutatis mutandis ooreenkomstig die bepalings van artikel 18 (5)]** bereken is op die grondslag van die minimum prys en die bedrag in artikel 18 (1) bedoel, aan die vereniging betaal op die voorwaardes wat die vereniging in elke geval bepaal.”. 40

Vervanging van artikel 16A van Wet 47 van 1970, soos ingevoeg deur artikel 14 van Wet 74 van 1974 en gewysig deur artikel 5 van Wet 44 van 1983 en artikel 5 van Wet 36 van 1988

13. Artikel 16A van die Hoofwet word hierby deur die volgende artikel vervang:

“**Registrasie van persele vir sekere bedrywighede in verband met wyn** 45

16A. (1) Niemand wat gelisensieer is om in drank handel te dryf en geen distilleerder wat wyn in stortmaat van 'n wynboer of koöperatiewe vereniging ontvang, en geen wynboer, **[of]** koöperatiewe vereniging of botteleerder, mag enige perseel vir die ontvangs, vervaardiging, verwerking, verpakking of opberging **[in stortmaat]** van wyn (ingevolge 50 paragraaf (a) van die omskrywing van 'wyn') gebruik nie, tensy daardie perseel by die vereniging geregistreer is.

(2) Die vereniging moet 'n registrasiesertifikaat ten opsigte van elke registrasie deur hom kragtens subartikel (1) toegestaan, uitreik.”.

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

- (ii) a distiller;
 (iii) a winegrower; or
 (iv) a co-operative society;” and
 (b) by the deletion in the said subsection (1) of the definition of “quality price”.

Amendment of section 16 of Act 47 of 1970, as amended by section 1 of Act 69 of 1976, section 13 of Act 74 of 1974, section 4 of Act 44 of 1983 and section 4 of Act 36 of 1988

12. Section 16 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (2A) of the following paragraph:
 “(a) The vereniging—
 (i) may on or before the twentieth September in any particular year in writing recommend to the Minister that he fix a maximum quantity of grapes which persons licensed to deal in liquor and distillers may **[the]** in the aggregate, but excluding any excess referred to in paragraph (cA), purchase or acquire from **[the]** winegrowers and co-operative societies during the year following on the recommendation, and **[may]** shall in such recommendation propose a maximum quantity for this purpose **[whereupon the Minister shall]**; and
 (ii) shall as soon as possible thereafter by notice in the *Gazette* publish particulars of the recommendation **[including the maximum quantity proposed by the vereniging]** and call upon interested persons to lodge with **[him]** the Minister in writing, within a period of fourteen days from the date of the notice, any objection **[in writing]** to the adoption of the recommendation **[or to the maximum quantity proposed by the vereniging]**.”; and
 (b) by the substitution for paragraph (cB) of subsection (2A) of the following paragraph:
 “(cB) A person who is licensed to deal in liquor or a distiller shall in respect of any portion of an excess referred to in paragraph (cA) by him, which cannot be set off within the period referred to in that paragraph in terms of the provisions of that paragraph, pay to the vereniging, subject to such conditions as the vereniging may in each case determine, an amount which is **[mutatis mutandis]** calculated **[in accordance with the provisions of section 18(5)]** on the basis of the minimum price and the amount referred to in section 18(1).”.

Substitution of section 16A of Act 47 of 1970, as inserted by section 14 of Act 74 of 1974 and amended by section 5 of Act 44 of 1983 and section 5 of Act 36 of 1988

13. The following section is hereby substituted for section 16A of the principal Act:

“Registration of premises for certain activities in connection with wine

- 16A. (1) No person licensed to deal in liquor and no distiller who receives wine in bulk from a winegrower or co-operative society, and no winegrower **[or]**, co-operative society or bottler, shall use any premises for the receipt, manufacture, processing, packing or storage **[in bulk]** of wine (in terms of paragraph (a) of the definition of ‘wine’), unless those premises are registered with the vereniging.
 (2) The vereniging shall issue a registration certificate in respect of each registration granted by it under subsection (1).”.

Wet No. 87, 1990

WYSIGINGSWET OP BEHEER OOR WYN EN SPIRITUS, 1990

Wysiging van artikel 17 van Wet 47 van 1970, soos gewysig deur artikel 6 van Wet 70 van 1972, artikel 15 van Wet 74 van 1974, artikel 2 van Wet 26 van 1975 en artikel 6 van Wet 44 van 1983

14. Artikel 17 van die Hoofwet word hierby gewysig—

- (a) deur in die voorbehoudsbepaling by paragraaf (b) van subartikel (1) die woord "Rhodesië" deur die woord "Zimbabwe" te vervang;
- (b) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:
 - “(a) enigee van sy lede vir sy private gebruik, in ruil vir wyn soos omskryf in artikel 14, of wyn (soos omskryf in artikel 1) bestem vir distilleringsdoeleindes, deur daardie lid op grond ten opsigte waarvan ’n permit ingevolge artikel 15 (1) aan die lid uitgereik is, geproduseer en aan die vereniging gelever, ’n hoeveelheid wyn [(ingevolge paragraaf (a) van die omskrywing van “wyn”)] verskaf wat, tesame met die gesamentlike hoeveelheid [brandewyn, jenewer, likeur, druifspiritus en wodka] drankprodukte (soos in artikel 1 omskryf) gedurende daardie jaar aan daardie lid kragtens artikel 3 (4) (a) verskaf, gelyk staan met hoogstens 40 liter absolute alkohol;” en
- (c) deur subartikel (2A) deur die volgende subartikel te vervang:
 - “(2A) Die vereniging kan wyn verkoop kragtens ’n wynhuislisensie vermeld in artikel [22] 20 van die Drankwet [1977 (Wet No. 87 van 1977)], 1989 (Wet No. 27 van 1989), wat aan die vereniging kragtens die bepalings van daardie Wet uitgereik mag word.”.

Vervanging van artikel 18 van Wet 47 van 1970, soos gewysig deur artikel 7 van Wet 70 van 1972, artikel 16 van Wet 74 van 1974, artikel 2 van Wet 47 van 1978, artikel 4 van Wet 87 van 1980, artikel 7 van Wet 44 van 1983, artikel 2 van Wet 63 van 1984 en artikel 6 van Wet 36 van 1988

15. Artikel 18 van die Hoofwet word hierby deur die volgende artikel vervang:

“Prys en betalingsreëlings met betrekking tot wyn

- 18. (1) Die vereniging kan, met die goedkeuring van die Minister, ten opsigte van enige jaar—
 - (a) ’n minimum prys vir wyn vasstel;
 - (b) die bedrag vasstel wat by so ’n minimum prys gevoeg moet word ten opsigte van—
 - (i) die sterkte van sodanige wyn of, in die geval van wyn bedoel in paragraaf (b) van die omskrywing van ‘wyn’, die suikerinhoud daarvan uitgedruk in grade Balling; en
 - (ii) die verskillende tipes houers en verpakkingsmateriaal, en dienste betreffende die verpakking en verkoop van sodanige wyn;
 - (c) die maandelikse toeslag vasstel wat by so ’n minimum prys gevoeg moet word indien wyn na 30 Junie van die betrokke jaar gekoop word deur of verkoop word aan ’n persoon wat gelisensieer is om in drank handel te dryf of ’n distilleerder (behalwe die vereniging);
 - (d) die maandelikse opbergingsgelde vasstel wat by so ’n minimum prys gevoeg moet word indien wyn—
 - (i) wat voor 1 Oktober van die betrokke jaar gekoop is deur of verkoop is aan ’n persoon wat gelisensieer is om in drank handel te dryf of ’n distilleerder (behalwe die vereniging), na genoemde datum deur die verkoper daarvan opgeberg word; of
 - (ii) wat na genoemde datum aldus gekoop of verkoop is, deur die verkoper daarvan opgeberg word na die laaste dag van die maand waarin dit gekoop of verkoop is;
 - (e) die tydperk vasstel waarbinne so ’n minimum prys, bedrag, toeslag en opbergingsgelde betaal moet word;
 - (f) die rente en ander gelde vasstel wat by so ’n minimum prys, soos verhoog deur enige sodanige bedrag, toeslag en opbergingsgelde, gevoeg moet word;
 - (g) die omstandighede vasstel waaronder sodanige rente of ander gelde aldus bygevoeg moet word; en

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

Amendment of section 17 of Act 47 of 1970, as amended by section 6 of Act 70 of 1972, section 15 of Act 74 of 1974, section 2 of Act 26 of 1975 and section 6 of Act 44 of 1983

14. Section 17 of the principal Act is hereby amended—

- 5 (a) by the substitution in the proviso to paragraph (b) of subsection (1) for the word “Rhodesia” of the word “Zimbabwe”;
- (b) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
- 10 “(a) supply to any of its members for his private use in exchange for wine as defined in section 14, or wine (as defined in section 1) intended for distillation purposes, produced by that member on land in respect of which a permit has been issued to the member in terms of section 15 (1) and delivered to the vereniging, such a quantity of wine [(in terms of paragraph (a) of the definition of “wine”)] as, together with the aggregate quantity of [brandy, gin, liqueur, grape spirit and vodka] liquor products (as defined in section 1) supplied to that member
- 15 during that year under section 3 (4) (a), is equivalent to not more than 40 litres of absolute alcohol;”;
- (c) by the substitution for subsection (2A) of the following subsection:
- 20 “(2A) The vereniging may sell wine under a wine house licence referred to in section [22] 20 of the Liquor Act, [1977 (Act No. 87 of 1977)] 1989 (Act No. 27 of 1989), that may be issued to the vereniging under the provisions of that Act.”.

Substitution of section 18 of Act 47 of 1970, as amended by section 7 of Act 70 of 1972, section 16 of Act 74 of 1974, section 2 of Act 47 of 1978, section 4 of Act 87 of 1980, 25 section 7 of Act 44 of 1983, section 2 of Act 63 of 1984 and section 6 of Act 36 of 1988

15. The following section is hereby substituted for section 18 of the principal Act:

“Price and payment arrangements with regard to wine

18. (1) The vereniging may, with the approval of the Minister, in respect of any year determine—
- 30 (a) a minimum price for wine;
- (b) the amount which shall be added to such minimum price in respect of—
- 35 (i) the strength of such wine or, in the case of wine referred to in paragraph (b) of the definition of ‘wine’, the sugar content thereof expressed in degrees Balling; and
- (ii) the different types of containers and packing material, and services relating to the packaging and sale of such wine;
- (c) the monthly surcharge which shall be added to such minimum price if wine is purchased or sold after 30 June of the year concerned by or to a person licensed to deal in liquor or a distiller (other than the vereniging);
- 40 (d) the monthly storage charges which shall be added to such minimum price if wine—
- 45 (i) that has prior to 1 October of the year concerned been purchased by or sold to a person licensed to deal in liquor or a distiller (other than the vereniging), is stored by the seller thereof after the said date; or
- (ii) that has been so purchased or sold after the said date, is stored by the seller thereof after the last day of the month in which it was purchased or sold;
- 50 (e) the period within which such minimum price, amount, surcharge and storage charges shall be paid;
- (f) the interest and other charges which shall be added to such minimum price, as increased by any such amount, surcharge and storage charges;
- 55 (g) the circumstances in which such interest or other charges shall be so added; and

Wet No. 87, 1990

WYSIGINGSWET OP BEHEER OOR WYN EN SPIRITUS, 1990

- (h) die voorwaardes en beperkings vasstel wat ten opsigte van so 'n minimum prys, bedrag, toeslag, opbergingsgelde, tydperk, rente en omstandighede van toepassing is.
- (2) (a) Verskillende minimum pryse kan ingevolge subartikel (1) vasgestel word ten opsigte van verskillende gebiede of verskillende klasse, tipes of grade wyn of verskillende druifcultivars of na gelang die wyn vir verskillende doeleindes bestem is. 5
- (b) So 'n minimum prys kan vasgestel word met of sonder inagneming van die sterkte of suikerinhoud van die betrokke wyn.
- (c) Enige opbergingsgelde wat deur die vereniging kragtens subartikel (1) vasgestel is, is van toepassing so lank as wat die wyn wat gekoop is, nie deur die koper verwyder is nie van die plaas of ander plek waar sodanige wyn geproduseer of vervaardig is of, indien sodanige wyn deur die verkoper op enige ander plek opgeberg word, van daardie plek, ongeag of lewering van sodanige wyn aan die koper regtens geskied het of nie en ongeag of die jaar waarin sodanige wyn gekoop is, verstryk het of nie. 10 15
- (3) Die vereniging moet—
- (a) voor of op 20 Januarie wat die jaar voorafgaan ten opsigte waarvan hy beoog om 'n vasstelling ingevolge subartikel (1) te doen, 'n skriftelike staat aan die Minister voorlê waarin besonderhede van die voorgestelde vasstelling aangegee word; en 20
- (b) so spoedig doenlik daarna besonderhede van die voorgestelde vasstelling by kennisgewing in die *Staatskoerant* publiseer en alle belanghebbendes aansê om besware wat hulle teen dié voorgestelde vasstelling het, binne 14 dae vanaf die datum van dié kennisgewing skriftelik by die Minister in te lewer. 25
- (4) Na oorweging van die voorgestelde vasstelling en besware, indien daar is, ingevolge 'n kennisgewing kragtens subartikel (3) by hom ingelewer, kan die Minister— 30
- (a) die vasstelling deur die vereniging voorgestel, goedkeur; of
- (b) die vereniging aansê om 'n ander vasstelling voor te stel, en daarop kan die Minister sodanige ander voorgestelde vasstelling goedkeur.
- (5) Elke goedkeuring deur die Minister ingevolge subartikel (4), word onverwyld deur hom by kennisgewing in die *Staatskoerant* bekend gemaak. 35
- (6) (a) Wanneer die vereniging van voorneme is om 'n bedrag of rente in subartikel (1) bedoel gedurende enige jaar te wysig, moet hy so spoedig doenlik 'n skriftelike staat aan die Minister voorlê waarin besonderhede van die voorgestelde wysiging uiteengesit word. 40
- (b) Die bepalinge van subartikels (3) (b), (4) en (5) is *mutatis mutandis* op so 'n voorgestelde wysiging van toepassing.
- (c) Enige bedrag of rente wat ingevolge hierdie subartikel vasgestel is, word geag die bedrag of rente te wees wat ten opsigte van die betrokke jaar of, na gelang van die geval, die onverstreke gedeelte daarvan vasgestel is. 45
- (7) (a) Niemand wat gelisensieer is om in drank handel te dryf en geen distilleerder (behalwe die vereniging) mag gedurende enige jaar ten opsigte waarvan 'n minimum prys kragtens subartikel (1) vasgestel is, wyn van iemand verkry nie, en geen wynboer of koöperatiewe vereniging mag gedurende so 'n jaar wyn aan iemand wat aldus gelisensieer is of so 'n distilleerder van die hand sit nie, teen 'n prys wat laer is as dié minimum prys plus die toepaslike byvoegings kragtens subartikel (1) vasgestel en, indien die wyn versterk is met spiritus wat nie deur die koper op eie koste voorsien is nie, plus die waarde van die bygevoegde spiritus, bereken teen die prys wat die vereniging groothandelaars vir spiritus kragtens Hoofstuk I vra. 50 55
- (b) Enige verkryging of vandiehandsetting van wyn deur of aan 'n wynboer of koöperatiewe vereniging wat gelisensieer is om in drank handel te dryf of as 'n distilleerder gelisensieer is, wat nie binne die gewone bestek van sake tussen 'n koöperatiewe vereniging en sy 60

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

- (h) the conditions and restrictions applicable in respect of such minimum price, amount, surcharges, storage charges, period, interest and circumstances.
- 5 (2) (a) Different minimum prices may be determined in terms of subsection (1) in respect of different areas or different classes, types or grades of wine or different grape cultivars, or according as the wine is intended for different purposes.
- 10 (b) Such minimum price may be determined with or without regard to the strength or sugar content of the wine concerned.
- 15 (c) Any storage charges determined by the vereniging under subsection (1) shall apply as long as the wine which has been purchased has not been removed by the purchaser from the farm or other place where such wine was produced or manufactured or, if such wine is stored by the seller at any other place, from that place, irrespective of whether or not delivery of such wine to the purchaser has in law been made, and irrespective of whether or not the year in which such wine was purchased has expired.
- 20 (3) The vereniging shall—
- (a) on or before 20 January preceding the year in respect of which it intends to make a determination in terms of subsection (1), submit to the Minister a statement in writing setting forth particulars of the proposed determination; and
- 25 (b) as soon as possible thereafter publish particulars of the proposed determination by notice in the *Gazette*, and call upon all interested persons to lodge with the Minister within 14 days from the date of such notice any objections which they may have against the proposed determination.
- 30 (4) After considering the proposed determination and objections, if any, lodged with him in pursuance of a notice under subsection (3), the Minister may—
- (a) approve of the determination proposed by the vereniging; or
- (b) call upon the vereniging to propose another determination, and the Minister may thereupon approve of such other proposed determination.
- 35 (5) Each approval by the Minister in terms of subsection (4) shall forthwith be made known by him by notice in the *Gazette*.
- 40 (6) (a) Whenever the vereniging proposes to amend an amount or interest referred to in subsection (1) during any year, it shall as soon as practicable submit to the Minister a statement in writing setting forth particulars of the proposed amendment.
- (b) The provisions of subsections (3) (b), (4) and (5) shall *mutatis mutandis* apply to any such proposed amendment.
- 45 (c) Any amount or interest determined in terms of this subsection, shall be deemed to be the amount or interest determined in respect of the year in question or, as the case may be, the unexpired portion thereof.
- 50 (7) (a) No person licensed to deal in liquor and no distiller (other than the vereniging) shall during any year in respect of which a minimum price has been determined under subsection (1), acquire any wine from any person, and no winegrower or co-operative society shall during such year dispose of any wine to any person so licensed or any such distiller, at a price which is less than such minimum price plus the applicable additions determined under subsection (1) and, if such wine has been fortified with spirit not supplied by the purchaser at his own expense, plus the value of the added spirit, calculated at the price charged by the vereniging under Chapter I to wholesale traders for spirit.
- 55 (b) Any acquisition or disposal of wine by or to a winegrower or co-operative society licensed to deal in liquor or licensed as a distiller, that does not fall within the ordinary scope of dealings
- 60

Wet No. 87, 1990

WYSIGINGSWET OP BEHEER OOR WYN EN SPIRITUS, 1990

lede val nie, word by die toepassing van paragraaf (a) geag die verkryging of vandiehandsetting van wyn deur of aan 'n aldus gelisensieerde persoon te wees.

- (8) (a) Geen wynboer of koöperatiewe vereniging mag gedurende enige jaar ten opsigte waarvan 'n minimum prys kragtens subartikel (1) vasgestel is, wyn aan iemand wat nie gelisensieer is om in drank handel te dryf of nie 'n distilleerder is nie, verkoop teen 'n prys wat laer is as die prys in subartikel (7) bedoel (uitgesonderd die toeslag, opbergingsgelde en rente onderskeidelik in subartikels (1) (c), (d) en (f) bedoel), plus—
- (i) 'n toeslag bereken teen die persentasie van laasgenoemde prys wat die vereniging met die goedkeuring van die Minister van tyd tot tyd vir die doeleindes van hierdie subartikel by kennisgewing in die *Staatskoerant* voorskryf;
 - (ii) 'n bedrag gelykstaande met die reg of ander belasting wat kragtens die een of ander wet deur die betrokke wynboer of koöperatiewe vereniging ten opsigte van sodanige wyn betaalbaar is;
 - (iii) 'n bedrag bereken ooreenkomstig die toepaslike heffing van tyd tot tyd ingevolge artikel 22 bepaal; en
 - (iv) die vervoerkoste wat die vereniging met die goedkeuring van die Minister van tyd tot tyd vir die doeleindes van hierdie subartikel by kennisgewing in die *Staatskoerant* voorskryf, indien sodanige wyn deur 'n wynboer of koöperatiewe vereniging gelewer word op 'n ander plek as die plek waar sodanige wyn geproduseer of vervaardig is, of die naaste spoorwegstasie of -halte aan daardie plek.
- (b) Ondanks die bepalings van paragraaf (a)—
- (i) is enige toeslag wat ingevolge subparagraaf (i) van daardie paragraaf voorgeskryf word, nie van toepassing nie op die verkoop van wyn aan 'n *bona fide*-boer slegs vir gebruik op sy plaas; en
 - (ii) is 'n bedrag ingevolge subartikel (1) (b) (ii) vasgestel, nie van toepassing nie op so 'n verkoop in stortmaat indien die betrokke boer die houers vir sodanige wyn verskaf.
- (9) Ondanks die bepalings van subartikels (7) en (8) kan die vereniging, met die goedkeuring van die Minister en onderworpe aan die voorwaardes wat die vereniging bepaal, die verkryging of vandiehandsetting van wyn vir uitvoer of die ander doel wat die vereniging bepaal, magtig teen 'n prys wat laer is as die minimum prys plus die toepaslike byvoegings kragtens subartikel (1) vasgestel, en sodanige goedkeuring deur die Minister is ook van toepassing op die vandiehandsetting van wyn deur die vereniging.”

Wysiging van artikel 18A van Wet 47 van 1970, soos ingevoeg deur artikel 17 van Wet 74 van 1974 en gewysig deur artikel 5 van Wet 87 van 1980

16. Artikel 18A van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:

“(2) (a) Indien die vereniging oortuig is dat wyn wat deur 'n wynboer of koöperatiewe vereniging verkoop gaan word aan iemand wat gelisensieer is om in drank handel te dryf of 'n distilleerder, na lewering daarvan aan daardie persoon of distilleerder, deur hom vir die doel van sy besigheid oor 'n groter afstand vervoer sal word as die afstand wat die vereniging met die goedkeuring van die Minister van tyd tot tyd by kennisgewing in die *Staatskoerant* vir die doeleindes van hierdie paragraaf voorskryf, kan die vereniging daardie wynboer of koöperatiewe vereniging magtig om, onderworpe aan die voorwaardes en op die grondslag wat die [Minister] vereniging van tyd tot tyd [goedkeur] bepaal, by te dra tot die koste wat deur daardie persoon of distilleerder aangegaan sal word by die vervoer van sodanige wyn, na bedoelde lewering daarvan en vir gemelde doel, oor die afstand waarmee die aldus voorgeskrewe afstand oorskry word.”

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

between a co-operative society and its members shall for the purposes of paragraph (a) be deemed to be the acquisition or disposal of wine by or to a person thus licensed.

(8) (a) No winegrower or co-operative society shall during any year in respect of which a minimum price has been determined under subsection (1), sell wine to any person who is not licensed to deal in liquor or is not a distiller, at a price which is less than the price referred to in subsection (7) (excluding the surcharge, storage charges and interest respectively referred to in subsection (1) (c), (d) and (f)), plus—

(i) a surcharge calculated at such percentage of the last-mentioned price as the vereniging, with the approval of the Minister, may from time to time prescribe by notice in the *Gazette* for the purposes of this subsection;

(ii) an amount equivalent to the duty or other tax payable under any law in respect of such wine by the winegrower or co-operative society concerned;

(iii) an amount calculated in accordance with the relevant levy determined from time to time in terms of section 22; and

(iv) such cost of transport as the vereniging, with the approval of the Minister, may from time to time prescribe by notice in the *Gazette* for the purposes of this subsection, if such wine is delivered by a winegrower or co-operative society at a place other than the place where such wine was produced or manufactured, or the railway station or siding nearest to such place.

(b) Notwithstanding the provisions of paragraph (a)—

(i) any surcharge prescribed in terms of subparagraph (i) of that paragraph shall not apply to the sale of wine to a *bona fide* farmer for use only on his farm; and

(ii) an amount determined in terms of subsection (1) (b) (ii) shall not apply to such sale in bulk if the farmer concerned supplies the containers for such wine.

(9) Notwithstanding the provisions of subsections (7) and (8) the vereniging may, with the approval of the Minister and subject to such conditions as the vereniging may determine, authorize the acquisition or disposal of wine for export or such other purpose as the vereniging may determine, at a price which is less than the minimum price plus the applicable additions determined under subsection (1), and such approval by the Minister shall also apply to the disposal of wine by the vereniging.”

Amendment of section 18A of Act 47 of 1970, as inserted by section 17 of Act 74 of 1974 and amended by section 5 of Act 87 of 1980

16. Section 18A of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(2) (a) If the vereniging is satisfied that wine which is to be sold by a winegrower or co-operative society to a person licensed to deal in liquor or a distiller, will after delivery thereof to such person or distiller, be transported by him for the purpose of his business for a distance in excess of such distance as the vereniging may, with the approval of the Minister, [may] from time to time by notice in the *Gazette* prescribe for the purposes of this paragraph, the vereniging may authorize such winegrower or co-operative society to contribute, subject to such conditions and on such basis as the **[Minister]** vereniging may [approve] determine from time to time, towards the cost which will be incurred by such person or distiller in transporting such wine, after such delivery thereof and for the said purpose, for the distance in excess of the distance so prescribed.”.

Wet No. 87, 1990

WYSIGINGSWET OP BEHEER OOR WYN EN SPIRITUS, 1990

Wysiging van artikel 20 van Wet 47 van 1970, soos gewysig deur artikel 9 van Wet 70 van 1972, artikel 19 van Wet 74 van 1974, artikel 3 van Wet 69 van 1976 en artikel 6 van Wet 87 van 1980

17. Artikel 20 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (2) deur die volgende subartikel te vervang: 5
- “(2) Die koopprys van enige sodanige wyn wat gedurende ’n jaar ten opsigte waarvan ’n minimum prys kragtens artikel 18 (1) vasgestel is, deur so iemand van ’n wynboer of koöperatiewe vereniging gekoop of verkry word, mag nie minder wees nie as daardie minimum prys plus ’n verdere bedrag bereken ooreenkomstig die toepaslike heffing van tyd tot tyd 10 ingevolge artikel 22 bepaal.”;
- (b) deur subartikels (3) en (6) te skrap; en
- (c) deur subartikel (5) deur die volgende subartikel te vervang: 15
- “(5) Subartikels (1), (2) [(3)] en (4) is nie van toepassing nie ten opsigte van die aankoop of verkryging van wyn in die gewone loop van sake tussen ’n koöperatiewe vereniging en sy lede.”.

Wysiging van artikel 21 van Wet 47 van 1970

18. Artikel 21 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te 20
- vervang:
- “(a) die bedrag wat ingevolge [subartikel (2) van] artikel 18 (7) in daardie jaar deur daardie persoon of distilleerder vir eersbedoelde wyn betaalbaar sou wees; of”; en
- (b) deur paragraaf (b) van genoemde subartikel (2) deur die volgende para- 25
- graaf te vervang:
- “(b) die koopprys van bedoelde wyn, indien daardie persoon of distilleerder die wyn ingevolge die bepalings van [subartikel (6) van genoemde] artikel 18 (9) gekoop het teen ’n prys wat laer is as die in [subartikel (2) van genoemde] artikel 18 (7) [voorgeskrewe] bedoelde 30 minimum prys.”.

Vervanging van artikel 22 van Wet 47 van 1970, soos vervang deur artikel 21 van Wet 74 van 1974 en gewysig deur artikel 7 van Wet 87 van 1980, artikel 8 van Wet 44 van 1983 en artikel 4 van Wet 63 van 1984

19. Artikel 22 van die Hoofwet word hierby deur die volgende artikel vervang:

“**Betaling van heffing deur lisensiehouers, distilleerders, wynboere en koöperatiewe verenigings** 35

22. (1) Die vereniging kan, met die goedkeuring van die Minister, ten opsigte van enige jaar ’n heffing bepaal wat aan die vereniging betaalbaar is—

- (a) deur elke persoon wat gelisensieer is om in drank handel te dryf en 40
- elke distilleerder ten opsigte van wyn wat hy van ’n wynboer of koöperatiewe vereniging gekoop of verkry het; en
- (b) deur elke wynboer en koöperatiewe vereniging ten opsigte van wyn 45
- wat hy verkoop het aan iemand wat nie gelisensieer is om in drank handel te dryf of nie ’n distilleerder is nie.

(2) Heffings wat ingevolge subartikel (1) bepaal word, kan verskil ten opsigte van verskillende klasse, tipes of grade wyn of ten opsigte van die ander aangeleenthede wat die vereniging bepaal.

(3) Die vereniging moet voor of op 1 Februarie van ’n jaar ten opsigte waarvan ’n heffing bepaal en goedgekeur is soos in subartikel (1) beoog, 50

besonderhede van daardie heffing by kennisgewing in die *Staatskoerant* bekend maak.

(4) Ondanks die bepalings van subartikel (1) kan die vereniging vrystelling van die betaling van ’n heffing wat ingevolge daardie sub- 55

artikel bepaal is, verleen aan enige persoon of klas persone, of in die algemeen of onder die omstandighede vermeld in die kennisgewing in subartikel (3) bedoel.”.

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

Amendment of section 20 of Act 47 of 1970, as amended by section 9 of Act 70 of 1972, section 19 of Act 74 of 1974, section 3 of Act 69 of 1976 and section 6 of Act 87 of 1980

17. Section 20 of the principal Act is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:
- 5 “(2) The purchase price of any such wine purchased or acquired by any such person from a winegrower or co-operative society during any year in respect of which a minimum price has been determined under section 18 (1), shall not be less than such minimum price plus a further amount calculated in accordance with the relevant levy as determined from time to time in terms of section 22.”;
- 10 (b) by the deletion of subsections (3) and (6); and
- (c) by the substitution for subsection (5) of the following subsection:
- 15 “(5) Subsections (1), (2) **[(3)]** and (4) shall not apply in respect of any purchase or acquisition of wine in the ordinary course of dealing between a co-operative society and its members.”.

Amendment of section 21 of Act 47 of 1970

18. Section 21 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
- 20 “(a) the amount which would be payable by such person or distiller in that year for such first-mentioned wine in terms of **[subsection (2) of]** section 18 (7); or”; and
- (b) by the substitution for paragraph (b) of the said subsection (2) of the following paragraph:
- 25 “(b) the purchase price of such wine, if such person or distiller purchased the wine in pursuance of the provisions of **[subsection (6) of the said]** section 18 (9) at a price which is less than the minimum price **[prescribed in subsection (2) of the said]** referred to in section 18 (7).”.

30 **Substitution of section 22 of Act 47 of 1970, as substituted by section 21 of Act 74 of 1974 and amended by section 7 of Act 87 of 1980, section 8 of Act 44 of 1983 and section 4 of Act 63 of 1984**

19. The following section is hereby substituted for section 22 of the principal Act:

“Payment of levy by licensees, distillers, winegrowers and co-operative societies

- 35 22. (1) The vereniging may, with the approval of the Minister, in respect of any year, determine a levy that shall be payable to the vereniging—
- (a) by every person licensed to deal in liquor and every distiller in respect of wine purchased or acquired by him from a winegrower or co-operative society; and
- 40 (b) by every winegrower and co-operative society in respect of wine sold by him to any person who is not licensed to deal in liquor or is not a distiller.
- (2) Levies determined in terms of subsection (1) may differ in respect of different classes, types or grades of wine or in respect of such other matters as the vereniging may determine.
- 45 (3) The vereniging shall on or before 1 February of a year in respect of which a levy is determined and approved as contemplated in subsection (1), publish particulars of that levy by notice in the *Gazette*.
- (4) Notwithstanding the provisions of subsection (1), the vereniging
- 50 may grant exemption from the payment of a levy determined in terms of that subsection to any person or class of persons, either generally or under such circumstances as may be specified in the notice referred to in subsection (3).”.

Wet No. 87, 1990

WYSIGINGSWET OP BEHEER OOR WYN EN SPIRITUS, 1990

Wysiging van artikel 25 van Wet 47 van 1970, soos gewysig deur artikel 23 van Wet 74 van 1974 en artikel 4 van Wet 69 van 1976

20. Artikel 25 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Regulasies kragtens hierdie artikel uitgevaardig, kan **[strawwe, wat die in artikel 26 (1) (iv) bedoelde strawwe nie te bowe gaan nie, voorskryf]** vir ’n oortreding daarvan of versuim om daaraan te voldoen, strawwe voorskryf wat nie ’n boete van R2 000 of gevangenisstraf vir ’n tydperk van ses maande of sowel sodanige boete as sodanige gevangenisstraf te bowe gaan nie.”

Herroeping van artikel 26 van Wet 47 van 1970, soos gewysig deur artikel 24 van Wet 74 van 1974

21. Artikel 26 van die Hoofwet word hierby herroep.

Vervanging van artikel 27 van Wet 47 van 1970, soos vervang deur artikel 9 van Wet 44 van 1983

22. Artikel 27 van die Hoofwet word hierby deur die volgende artikel vervang:

“Vrystelling van sekere bepalings van Drankwet, 1989

27. Die bepalings van die Drankwet, **[1977 (Wet No. 87 van 1977)]** 1989 (Wet No. 27 van 1989), is nie van toepassing nie ten opsigte van—

- (a) die verkoop deur die vereniging aan ’n lisensiehouer soos in daardie Wet omskryf, of aan ’n koöperatiewe vereniging of distilleerder, of, ingevolge artikel 3 (4) (c) of 17 (2) (d), aan ’n werknemer of direkteur van die vereniging, van wyn of ander bedwelmende drank wat die opbrengs van wingerdstokke in die Republiek is;
- (b) die koop of verkryging deur die vereniging van sodanige wyn of drank van ’n wynboer of so ’n lisensiehouer, vereniging of distilleerder; of
- (c) die vervoer van sodanige wyn of drank met die doel om dit af te lewer ingevolge sodanige verkoop, koop of verkryging.”

Herroeping van artikel 30 van Wet 47 van 1970, soos vervang deur artikel 11 van Wet 44 van 1983

23. Artikel 30 van die Hoofwet word hierby herroep.

Wysiging van artikel 44 van Wet 47 van 1970, soos gewysig deur artikel 12 van Wet 44 van 1983 en artikels 46 en 47 van Wet 97 van 1986

24. Artikel 44 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (e) van subartikel (1) deur die volgende paragraaf te vervang:

“(e) strawwe voorskryf, wat nie ’n boete van **[duisend]** tweeduisend rand of gevangenisstraf vir ’n tydperk van **[twaalf]** ses maande te bowe gaan nie, vir ’n oortreding daarvan of versuim om daaraan te voldoen of vir ’n vermeldde doen of late wat die verwesenliking van die oogmerke van die toepassing van die regulasies sou kan verydel.”; en

- (b) deur subartikel (5) te skrap.

Wysiging van artikel 45 van Wet 47 van 1970

25. Artikel 45 van die Hoofwet word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

“(5) Wyn wat deur die vereniging ingevoer is, en spiritus wat van sodanige wyn verkry is, word by die toepassing van Hoofstuk I en Hoofstuk II van hierdie Wet, die Doeane- en Aksynswet, 1964 (Wet No. 91 van 1964), en die Wet op **[Wyn, Ander Gegiste Drank en Spiritualieë, 1957 (Wet No. 25 van 1957)]** Drankprodukte, 1989 (Wet No. 60 van 1989), en die regulasies kragtens enige

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

Amendment of section 25 of Act 47 of 1970, as amended by section 23 of Act 74 of 1974 and section 4 of Act 69 of 1976

20. Section 25 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

- 5 “(2) Any regulations made under this section may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding **[the penalties referred to in section 26 (1) (v)]** a fine of R2 000 or imprisonment for a period of six months or both such fine and such imprisonment.”

Repeal of section 26 of Act 47 of 1970, as amended by section 24 of Act 74 of 1974

- 10 21. Section 26 of the principal Act is hereby repealed.

Substitution of section 27 of Act 47 of 1970, as substituted by section 9 of Act 44 of 1983

22. The following section is hereby substituted for section 27 of the principal Act:

“Exemption from certain provisions of Liquor Act, 1989

- 15 27. The provisions of the Liquor Act, **[Act No. 87 of 1977]** 1989 (Act No. 27 of 1989), shall not apply in respect of—

- (a) the sale by the vereniging to a licensee as defined in that Act, or to a co-operative society or distiller, or, in terms of section 3 (4) (c) or 17 (2) (d), to an employee or director of the vereniging, of any wine or other intoxicating liquor, the produce of vines in the Republic;
- 20 (b) the purchase or acquisition by the vereniging from any winegrower or any such licensee, society or distiller, of such wine or liquor; or
- (c) the conveyance of such wine or liquor for the purpose of delivery in pursuance of such sale, purchase or acquisition.”

25 Repeal of section 30 of Act 47 of 1970, as substituted by section 11 of Act 44 of 1983

23. Section 30 of the principal Act is hereby repealed.

Amendment of section 44 of Act 47 of 1970, as amended by section 12 of Act 44 of 1983 and sections 46 and 47 of Act 97 of 1986

24. Section 44 of the principal Act is hereby amended—

- 30 (a) by the substitution for paragraph (e) of subsection (1) of the following paragraph:

- “(e) prescribe penalties, not exceeding a fine of **[one]** two thousand rand or imprisonment for a period of **[twelve]** six months for a contravention thereof or failure to comply therewith, or for any specified act or omission which could frustrate the attainment of the objects of the application of the regulations.”; and
- 35

- (b) by the deletion of subsection (5).

Amendment of section 45 of Act 47 of 1970

25. Section 45 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

- “(5) Any wine imported by the vereniging and any spirit derived from such wine shall for the purposes of Chapter I and Chapter II of this Act, the Customs and Excise Act, 1964 (Act No. 91 of 1964), and the **[Wine, Other Fermented Beverages and Spirits Act, 1957 (Act No. 25 of 1957)]** Liquor Products Act, 1989 (Act No. 60 of 1989), and any regulations made under any of the said Chapters
- 45

Wet No. 87, 1990

WYSIGINGSWET OP BEHEER OOR WYN EN SPIRITUS, 1990

van genoemde Hoofstukke of Wette uitgevaardig, geag onderskeidelik wyn en spiritus te wees wat die opbrengs van wingerdstokke in die Republiek is.”

Wysiging van artikel 45A van Wet 47 van 1970, soos ingevoeg deur artikel 1 van Wet 62 van 1975

26. Artikel 45A van die Hoofwet word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Brandewyn wat deur die vereniging ingevoer word, word by die toepassing van Hoofstuk I van hierdie Wet en die Wet op **[Wyn, Ander Gegiste Drank en Spiritualieë, 1957 (Wet No. 25 van 1957)]** Drankprodukte, 1989 (Wet No. 60 van 1989), en die regulasies kragtens genoemde Hoofstuk of laasgenoemde Wet uitgevaardig, geag brandewyn te wees wat uit die produk van wingerdstokke in die Republiek vervaardig is en voldoen aan die vereistes beoog in artikel 9 (1) (a) van genoemde Hoofstuk.”

Wysiging van artikel 46 van Wet 47 van 1970, soos gewysig deur artikel 13 van Wet 44 van 1983, artikels 46 en 47 van Wet 97 van 1986 en artikel 8 van Wet 36 van 1988

27. Artikel 46 van die Hoofwet word hierby gewysig—

- (a) deur na paragraaf (eB) van subartikel (1) die volgende paragraaf in te voeg:
 “(eC) voorsiening maak vir die berekening van die hoeveelheid wyn wat van ’n ton duiwe teen 20 grade (soos bepaal deur Balling se saccharometer), verkry kan word, en vir die grondslag waarop en metode waarvolgens sodanige berekening gedoen moet word, met inbegrip van die ander instrumente of metodes in artikel 54 (1A) (a) bedoel;”
- (b) deur paragraaf (f) van subartikel (1) deur die volgende paragraaf te vervang:
 “(f) strawwe voorskryf, wat nie ’n boete van **[tweehonderd]** tweeduisend rand of gevangenisstraf vir ’n tydperk van ses maande te bowe gaan nie, vir ’n oortreding daarvan of versuim om daaraan te voldoen, of vir ’n vermeldde doen of late wat die verwesenliking van die oogmerke van die toepassing van die regulasies sou kan verydel.”; en
- (c) deur subartikel (5) te skrap.

Vervanging van artikel 48 van Wet 47 van 1970, soos gewysig deur artikel 13 van Wet 70 van 1972 en artikel 9 van Wet 36 van 1988

28. Artikel 48 van die Hoofwet word hierby deur die volgende artikel vervang:

“Bevoegdheid van vereniging om heffings op te lê op wyn, spiritus en brandewyn

48. (1) Die vereniging kan, na oorlegpleging met ’n verteenwoordigende liggaam van groothandelaars deur die Minister bepaal en met die goedkeuring van die Minister, ten opsigte van die een of ander jaar ’n heffing oplê op—

- (a) wyn soos omskryf in artikel 14; en
 - (b) wyn, soos omskryf in artikel 1, bestem vir destilleringdoeleindes, en spiritus en brandewyn (met inbegrip van spiritus of brandewyn in versterkte wyn wat vir die doel van versterking daarby gevoeg is).
- [wat gedurende daardie jaar deur ’n wynboer of koöperatiewe vereniging aan iemand, met inbegrip van die vereniging, verkoop of van die hand gesit word, en so ’n heffing moet vasgestel word op ’n vermeldde bedrag, in die geval beoog in paragraaf (a) van hierdie subartikel, per hektoliter wyn, behalwe duiwe, moskonfyt, rosyne en sultanas, en, in die geval beoog in paragraaf (b) van hierdie subartikel, per hektoliter wyn van ’n sterkte van tien persent alkohol volgens volume.]**

(2) Die vereniging moet ’n heffing aldus deur hom opgelê en vasgestel, en die tyd wanneer betaling daarvan moet geskied, by kennisgewing in die *Staatskoerant* bekend maak voor of op die eerste Februarie van die betrokke jaar.

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

or Acts, be deemed to be respectively wine and spirit which are the produce of vines in the Republic.”.

Amendment of section 45A of Act 47 of 1970, as inserted by section 1 of Act 62 of 1975

26. Section 45A of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) Any brandy imported by the vereniging shall for the purposes of Chapter I of this Act and the **Wine, Other Fermented Beverages and Spirits Act, 1957 (Act No. 25 of 1957)** Liquor Products Act, 1989 (Act No. 60 of 1989), and any regulations made under the said Chapter or the last-mentioned Act, be deemed to be brandy manufactured from the produce of vines in the Republic and complying with the requirements contemplated in section 9 (1) (a) of the said Chapter.”.

Amendment of section 46 of Act 47 of 1970, as amended by section 13 of Act 44 of 1983, sections 46 and 47 of Act 97 of 1986 and section 8 of Act 36 of 1988

27. Section 46 of the principal Act is hereby amended—

(a) by the insertion after paragraph (eB) of subsection (1) of the following paragraph:

“(eC) provide for the calculation of the quantity of wine that may be obtained from a ton of grapes at 20 degrees (as ascertained by Balling’s saccharometer), and for the basis on which and method by which such calculation shall be done, including the other instruments or methods referred to in section 54 (1A) (a);”;

(b) by the substitution for paragraph (f) of subsection (1) of the following paragraph:

“(f) prescribe penalties not exceeding a fine of two **[hundred]** thousand rand or imprisonment for a period of six months, for any contravention thereof or failure to comply therewith, or for any specified act or omission which could frustrate the attainment of the objects of the application of the regulations.”; and

(c) by the deletion of subsection (5).

Substitution of section 48 of Act 47 of 1970, as amended by section 13 of Act 70 of 1972 and section 9 of Act 36 of 1988

28. The following section is hereby substituted for section 48 of the principal Act:

“Power of vereniging to impose levies on wine, spirit and brandy

48. (1) The vereniging may, after consultation with a representative body of wholesalers determined by the Minister and with the approval of the Minister, in respect of any year impose a levy on—

(a) wine as defined in section 14; and

(b) wine, as defined in section 1, intended for distillation purposes, and spirit and brandy (including spirit or brandy in fortified wine which was added thereto for the purpose of fortification).

[sold or disposed of during such year by a winegrower or a co-operative society to any person, including the vereniging, and such levy shall be fixed at a specified amount, in the case contemplated in paragraph (a) of this subsection, per hectolitre of wine, other than grapes, moskonfyt, raisins and sultanas, and, in the case contemplated in paragraph (b) of this subsection, per hectolitre of wine at a strength of ten per cent of alcohol by volume.]

(2) The vereniging shall by notice in the *Gazette* make known, on or before the first February of the year in question, any levy so imposed and fixed by it and the time when payment thereof shall be made.

Wet No. 87, 1990

WYSIGINGSWET OP BEHEER OOR WYN EN SPIRITUS, 1990

(3) By die toepassing van subartikel (1) kan verskillende heffings opgelê word ten opsigte van verskillende klasse, tipes of grade wyn of verskillende klasse spiritus of brandewyn.

(4) Die vereniging kan met die goedkeuring van die Minister, in die kennisgewing bedoel in subartikel (2), enige persoon of klas persone of in die algemeen of onder die omstandighede vermeld in die kennisgewing, van die betaling van 'n heffing bedoel in subartikel (1) vrystel.”

Vervanging van artikel 49 van Wet 47 van 1970, soos gewysig deur artikel 9 van Wet 87 van 1980

29. Artikel 49 van die Hoofwet word hierby deur die volgende artikel vervang: 10

“Betaling van heffing betaalbaar op wyn, spiritus en brandewyn

49. 'n Heffing wat ingevolge artikel 48 (1) op wyn, spiritus en brandewyn opgelê is, is betaalbaar aan die vereniging—

- (a) deur iemand wat gelisensieer is om in drank handel te dryf en 'n distilleerder ten opsigte van wyn, spiritus en brandewyn wat hy van die vereniging verkry het of, ingevolge 'n skriftelike koopkontrak bedoel in artikel 5A of 18B, van 'n wynboer of koöperatiewe vereniging gekoop of andersins verkry het; en 15
- (b) deur 'n wynboer en 'n koöperatiewe vereniging ten opsigte van wyn, spiritus en brandewyn wat hy anders as ingevolge so 'n skriftelike koopkontrak verkoop of andersins van die hand gesit het.” 20

Wysiging van artikel 50 van Wet 47 van 1970, soos gewysig deur artikel 5 van Wet 63 van 1984

30. Artikel 50 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang: 25

“(1) Die bepalings van artikel 48 is nie van toepassing nie op wyn van die hand gesit in die gewone loop van sake tussen 'n koöperatiewe vereniging en sy lede.”; en
- (b) deur subartikel (2) te skrap.

Vervanging van artikel 51 van Wet 47 van 1970, soos gewysig deur artikel 10 van Wet 87 van 1980 30

31. Artikel 51 van die Hoofwet word hierby deur die volgende artikel vervang:

“Navorsingrekening

51. (1) Die vereniging moet 'n rekening met die naam **Wynnavorsing- en Reklamerekening** Navorsingrekening instel wat gekrediteer word met alle geld wat ingevolge artikel 49 aan die vereniging betaal is. 35

(2) Die vereniging kan soveel van die geld in daardie rekening as wat die Minister, na oorweging van 'n beraming bevattende alle besonderhede deur die Minister van tyd tot tyd bepaal en aan hom voorgelê deur die vereniging, van tyd tot tyd goedkeur, aanwend, op die wyse en op die tyte wat die vereniging goed ag, om in die Republiek of elders 40

[(a)] navorsing te steun of te bevorder en voorligting te verstrek ten opsigte van—

- (a) die verbouing van wingerdstokke van wyndruifvariëteite, met inbegrip van onderstokke gebruik by die verbouing van sodanige wingerdstokke **[ten opsigte van]**; 45
- (b) die produksie van wyn, ander gegiste of gedistilleerde druiweprodukte of druiwesap; of **[ten opsigte van]**
- (c) ekonomiese en ander aangeleenthede wat daarmee in verband staan. **[en** 50

(b) reklame, en navorsing ten opsigte van ekonomiese aangeleenthede, te steun of te onderneem en voorligting betreffende sodanige navorsing te verstrek, in verband met die produksie en bemarking van wyn,

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

(3) In the application of subsection (1), different levies may be imposed in respect of different classes, types or grades of wine or different classes of spirit or brandy.

5 (4) The vereniging may with the approval of the Minister, in the notice referred to in subsection (2), exempt any person or class of persons, either generally or under such circumstances as may be specified in the notice, from the payment of a levy referred to in subsection (1)."

Substitution of section 49 of Act 47 of 1970, as amended by section 9 of Act 87 of 1980

29. The following section is hereby substituted for section 49 of the principal Act:

10 "Payment of levy payable on wine, spirit and brandy

49. Any levy imposed in terms of section 48 (1) on any wine, spirit and brandy shall be payable to the vereniging—

- 15 (a) by any person who is licensed to deal in liquor and any distiller in respect of wine, spirit and brandy acquired by him from the vereniging or bought or otherwise acquired by him from a wine-grower or co-operative society in pursuance of a written contract of purchase and sale referred to in section 5A or 18B; and
- 20 (b) by any winegrower and any co-operative society in respect of wine, spirit and brandy sold or otherwise disposed of by him otherwise than in pursuance of such written contract of purchase and sale."

Amendment of section 50 of Act 47 of 1970, as amended by section 5 of Act 63 of 1984

30. Section 50 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
- 25 "(1) The provisions of section 48 shall not apply to wine disposed of in the ordinary course of dealing between a co-operative society and its members."; and
- (b) by the deletion of subsection (2).

Substitution of section 51 of Act 47 of 1970, as amended by section 10 of Act 87 of 1980

31. The following section is hereby substituted for section 51 of the principal Act:

30 "Research Account

51. (1) The vereniging shall establish an account to be known as the **[Wine] Research [and Publicity] Account**, to which shall be credited all moneys paid to the vereniging in terms of section 49.

35 (2) The vereniging may use so much of the moneys in such account as the Minister may from time to time approve, after consideration of an estimate containing all particulars determined from time to time by the Minister and submitted to him by the vereniging, in such manner and at such times as it may deem fit

40 **[(a)]** for aiding or promoting research and furnishing information, in the Republic or elsewhere, in respect of—

- (a) the cultivation of vines of wine-grape varieties, including root-stocks used in the cultivation of such vines **[in respect of]**;
- (b) the production of wine, other fermented or distilled products of the grape or grape juice; or **[in respect of]**
- 45 (c) economic and other matters incidental thereto. **[and**
- (b) **for aiding or undertaking publicity, and research in respect of economic matters and furnishing information regarding such research, in the Republic or elsewhere, in connection with the produc-**

Wet No. 87, 1990

WYSIGINGSWET OP BEHEER OOR WYN EN SPIRITUS, 1990

ander gegistê of gedistilleerde druiweprodukte of druiwesap geproduseer of vervaardig deur die vereniging of deur ander produsente of vervaardigers in die Republiek]

(3) Die vereniging moet, so spoedig doenlik na die end van elke jaar, 'n opgawe, deur 'n rekenmeester of ouditeur ooreenkomstig die reg gesertifiseer, van die inkomste en uitgawes ten opsigte van sodanige rekening gedurende daardie jaar, aan die Minister voorlê.”

Herroeping van artikel 52 van Wet 47 van 1970

32. Artikel 52 van die Hoofwet word hierby herroep.

Wysiging van artikel 54 van Wet 47 van 1970, soos ingevoeg deur artikel 29 van Wet 74 van 1974 en gewysig deur artikel 11 van Wet 87 van 1980 en artikel 14 van Wet 44 van 1983

33. Artikel 54 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) By die toepassing van hierdie Wet—

(a) word 1 **[metrieke]** ton druiwe teen 20 grade (soos bepaal deur Balling se saccharometer), geag gelyk te staan met **[7,3186 hektoliter]** 'n hoeveelheid wyn van 'n sterkte van tien persent alkohol volgens volume **[bereken ooreenkomstig die tabelle bedoel in paragraaf (c)]** soos bepaal volgens regulasies kragtens artikel 46 uitgevaardig;

(b) word 'n hoeveelheid **[druiwesap, moskonfyt]** rosyne of sultanas geag gelyk te staan in massa met 'n hoeveelheid druiwe wat in dieselfde massaverhouding tot daardie **[druiwesap, moskonfyt]** rosyne of sultanas staan as wat die syfer wat die persentasie (massa per massa) suiker in daardie hoeveelheid **[druiwesap, moskonfyt]** rosyne of sultanas verteenwoordig, tot 20 staan;

(bA) word 'n hoeveelheid druiwesap, mos of moskonfyt geag gelyk te staan met 'n hoeveelheid wyn van 'n sterkte van tien persent alkohol volgens volume soos bereken ooreenkomstig die tabelle in subartikel (1A) bedoel;

(c) word potensiële alkohol verteenwoordig deur die suiker in wyn, uitgedruk as 'n persentasie alkohol volgens volume, bereken ooreenkomstig die tabelle **[wat van tyd tot tyd deur die Minister goedgekeur en deur hom by die Direkteur-generaal: Landbou ingelewer is]** in subartikel (1A) bedoel; en

(d) word alkohol volgens volume in wyn of spiritus bepaal ooreenkomstig die piknometer-metode en omrekeningstabelle **[wat van tyd tot tyd deur die Minister goedgekeur en deur hom by die Direkteur-generaal: Landbou ingelewer is of sodanige ander metode as wat die Minister by kennisgewing in die Staatskoerant mag voorskryf]** in subartikel (1A) bedoel.”; en

(b) deur na subartikel (1) die volgende subartikel in te voeg:

“(1A) (a) Ondanks die bepalings van subartikel (1) kan die vereniging, met die goedkeuring van die Minister, 'n ander vermelde instrument of metode, wat in die plek van Balling se saccharometer of die piknometer-metode gebruik kan word, voorskryf vir die doeleindes van 'n bepaling in paragraaf (a) of (d) van daardie subartikel bedoel.

(b) Die vereniging moet, met die goedkeuring van die Minister, tabelle voorskryf vir gebruik ingevolge paragrawe (bA), (c) en (d) van subartikel (1).

(c) Afskrifte van 'n voorskrif in paragraaf (a) bedoel en van die tabelle in paragraaf (b) bedoel, is van die vereniging verkrygbaar teen betaling van die bedrag wat die vereniging daarvoor bepaal.”

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

tion and marketing of wine, other fermented or distilled products of the grape or grape juice produced or manufactured by the vereniging or by other producers or manufacturers in the Republic]

- 5 (3) The vereniging shall, as soon as possible after the end of each year, submit to the Minister a statement, certified by an accountant or auditor according to law, of the income and expenditure in respect of such account during such year.”

Repeal of section 52 of Act No. 47 of 1970

32. Section 52 of the principal Act is hereby repealed.

10 Amendment of section 54 of Act 47 of 1970, as inserted by section 29 of Act 74 of 1974 and amended by section 11 of Act 87 of 1980 and section 14 of Act 44 of 1983

33. Section 54 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

- 15 “(1) For the purposes of this Act—
 (a) one **[metric]** ton of grapes at 20 degrees (as ascertained by Balling’s
 20 saccharometer) shall be deemed to be the equivalent of **[7,3186
 hectolitres]** a quantity of wine of a strength of ten per cent alcohol by
 volume **[calculated in accordance with the tables referred to in para-
 graph (c)]** as determined according to regulations made under section
 46;
 (b) any quantity of **[grape juice, moskonfyt]** raisins or sultanas shall be
 deemed to be the equivalent in mass to a quality of grapes which bears
 the same mass ratio to that quantity of **[grape juice, moskonfyt]** raisins
 25 or sultanas, as the figure representing the percentage (mass by mass) of
 sugar in that quantity of **[grape juice, moskonfyt]** raisins or sultanas,
 bears to 20;
 (bA) any quantity of grape juice, must or moskonfyt shall be deemed to be
 the equivalent of a quantity of wine of a strength of ten per cent alcohol
 by volume as calculated in accordance with the tables referred to in
 30 subsection (1A);
 (c) potential alcohol represented by the sugar contained in wine, ex-
 pressed as a percentage of alcohol by volume, shall be calculated in
 accordance with the tables **[approved by the Minister from time to time
 and lodged by him with the Director-General: Agriculture]** referred to
 35 in subsection (1A); and
 (d) the alcohol by volume in wine or spirits shall be determined in
 accordance with the pycnometer method and conversion tables **[which
 may from time to time be approved by the Minister and lodged by him
 with the Director-General: Agriculture, or such other method as the
 40 Minister may prescribe by notice in the Gazette]** referred to in
 subsection (1A).”; and
 (b) by the insertion after subsection (1) of the following subsection:
 45 “(1A) (a) Notwithstanding the provisions of subsection (1) the vereni-
 ging may, with the approval of the Minister, prescribe any other
 specified instrument or method, which may be used in the place of
 Balling’s saccharometer or the pycnometer method, for the purposes
 of a determination referred to in paragraph (a) or (d) of that
 subsection.
 50 (b) The vereniging shall, with the approval of the Minister, prescribe
 tables for use in terms of paragraphs (bA), (c) and (d) of subsection
 (1).
 (c) Copies of a prescription referred to in paragraph (a) and of the tables
 referred to in paragraph (b) shall be obtainable from the vereniging on
 55 payment of such amount as may be determined therefor by the
 vereniging.”

Wet No. 87, 1990

WYSIGINGSWET OP BEHEER OOR WYN EN SPIRITUS, 1990

Vervanging van artikel 56 van Wet 47 van 1970, soos ingevoeg deur artikel 29 van Wet 74 van 1974

34. Artikel 56 van die Hoofwet word hierby deur die volgende artikel vervang:

"Misdrywe en strawwe

56. (1) Iemand wat— 5
- (a) 'n bepaling van—
- (i) artikel 2 (1), 3 (3), 5 (3) (a), 6 (1), 9 (1), 15 (1), 16 (1), 17 (1), 18 (7) of (8), 18A of 20 (2); of
- (ii) artikel 2 (2), (3), (4) of (5), 2A, 5 (5) (a), 5A (1), 15A, 16 (2A) (cB) of (3), 16A (1), 18B, 19, 20 (1) of (4), 21 (1) of 21B (1), oortree of versuim om daaraan te voldoen; 10
- (aA) 'n vereiste kragtens artikel 9 (2) voorgeskryf, oortree of versuim om daaraan te voldoen;
- (aB) versuim om 'n heffing te betaal soos by artikel 22 of 49 van hom vereis; 15
- (aC) 'n voorwaarde deur die vereniging kragtens artikel 53 bepaal en onderworpe waaraan 'n permit, registrasie of toestemming kragtens 'n bepaling van hierdie Wet aan bedoelde persoon uitgereik, toegestaan of verleen is, oortree of versuim om daaraan te voldoen; 20
- [of]** 20
- (b) 'n inspekteur by die verrigting van sy werksaamhede of die uitoefening van sy bevoegdhede kragtens hierdie Wet, hinder, belemmer of weerstaan; **[of]**
- (c) versuim om binne 'n redelike tyd aan 'n vereiste kragtens artikel 55 (2) (c), (d) of (f) gestel, te voldoen, of ter nakoming van so 'n vereiste inligting verstrek wat vals is, wetende dat dit vals is; of 25
- (d) hom valslik as 'n inspekteur voordoen, is aan 'n misdryf skuldig **[en]**.
- (2) Iemand wat aan 'n misdryf kragtens hierdie Wet skuldig bevind word, is strafbaar— 30
- (a) by 'n eerste skuldigbevinding **[strafbaar]** aan 'n misdryf in paragraaf (a) (i), (aA), (b) of (d) van subartikel (1) bedoel, met 'n boete van hoogstens **[vyfhonderd rand]** R8 000 of met gevangenisstraf vir 'n tydperk van hoogstens **[twaalf maande]** twee jaar of met sowel daardie boete as daardie gevangenisstraf; 35
- (b) by 'n tweede of daaropvolgende skuldigbevinding aan 'n misdryf in paragraaf (a) vermeld, hetsy dit dieselfde misdryf of enige ander misdryf is in daardie paragraaf vermeld, met 'n boete van hoogstens R16 000 of met gevangenisstraf vir 'n tydperk van hoogstens vier jaar of met sowel daardie boete as daardie gevangenisstraf; 40
- (c) by 'n eerste skuldigbevinding aan 'n misdryf in paragraaf (a) (ii), (aB), (aC) of (c) van subartikel (1) bedoel, met 'n boete van hoogstens R4 000 of met gevangenisstraf vir 'n tydperk van hoogstens een jaar of met sowel daardie boete as daardie gevangenisstraf; en 45
- (d) by 'n tweede of daaropvolgende skuldigbevinding aan 'n misdryf in paragraaf (c) vermeld, hetsy dit dieselfde misdryf of enige ander misdryf is in daardie paragraaf vermeld, met 'n boete van hoogstens R8 000 of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met sowel daardie boete as daardie gevangenisstraf. 50
- (3) Die hof wat iemand skuldig bevind aan 'n derde of daaropvolgende oortreding van of versuim om te voldoen aan 'n bepaling van artikel 2 (1), 5 (3) (a) of (5) (a), 5A (1), 16 (1), (2A) (cB) of (3), 16A (1), 18 (7), 18A, 19 of 21 (1) of 'n vereiste kragtens artikel 22, kan 'n lisensie wat deur so iemand gehou word om in drank handel te dryf of om drank te distilleer, intrek." 55

Invoeging van artikels 56B en 56C in Wet 47 van 1970

35. Die volgende artikels word hierby in die Hoofwet na artikel 56A ingevoeg:

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

Substitution of section 56 of Act 47 of 1970, as inserted by section 29 of Act 74 of 1974

34. The following section is hereby substituted for section 56 of the principal Act:

5 **“Offences and penalties**

56. (1) Any person who—

(a) contravenes or fails to comply with a provision of—

(i) section 2 (1), 3 (3), 5 (3) (a), 6 (1), 9 (1), 15 (1), 16 (1), 17 (1), 18 (7) or (8), 18A or 20 (2); or

(ii) section 2 (2), (3), (4) or (5), 2A, 5 (5) (a), 5A (1), 15A, 16 (2A) (cB) or (3), 16A (1), 18B, 19, 20 (1) or (4), 21 (1) or 21B (1);

(aA) contravenes or fails to comply with a requirement prescribed under section 9 (2);

(aB) fails to pay any levy as required of him under section 22 or 49;

(aC) contravenes or fails to comply with any condition determined by the veneniging under section 53 and subject to which any permit, registration or consent was issued, granted or given to such person under any provision of this Act; **[or]**

(b) hinders, obstructs or resists any inspector in the performance of his functions or the exercise of his powers under this Act; **[or]**

(c) fails to comply, within a reasonable time, with a demand made under section 55 (2) (c), (d) or (f), or in pursuance of such demand, furnishes any information which is false, knowing it to be false; or

(d) falsely holds himself out as an inspector, shall be guilty of an offence **[and liable]**.

(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) (i), (aA), (b) or (d) of subsection (1), be liable to a fine not exceeding **[five hundred rand]** R8 000 or to imprisonment for a period not exceeding **[twelve months]** two years or to both such 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 not exceeding R16 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment;

(c) on a first conviction of an offence referred to in paragraph (a) (ii), (aB), (aC) or (c) of subsection (1), be liable to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year or to both such 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 not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(3) The court convicting any person of a third or subsequent contravention of or failure to comply with any provision of section 2 (1), 5 (3) (a) or (5) (a), 5A (1), 16 (1), (2A) (cB) or (3), 16A (1), 18 (7), 18A, 19 or 21 (1) or a requirement under section 22 may cancel any licence held by such person to deal in liquor or to distil liquor.”

Insertion of sections 56B and 56C in Act 47 of 1970

35. The following sections are hereby inserted in the principal Act after section 55 56A:

“Middellike aanspreeklikheid

- 56B.** (1) Wanneer 'n bestuurder, verteenwoordiger, agent, werknemer of lid van die gesin van iemand (in hierdie artikel die prinsipaal genoem) enige handeling verrig of versuim om dit te verrig, en dit 'n misdryf kragtens hierdie Wet sou wees indien die prinsipaal dit verrig of versuim om dit te verrig, word daardie prinsipaal geag self die handeling te verrig het of te versuim het om dit te verrig, tensy hy die hof oortuig dat—
- (a) hy die handeling of versuim van die betrokke bestuurder, verteenwoordiger, agent, werknemer of lid nòg oogluikend toegelaat nòg veroorloof het; 10
 - (b) hy alle redelike stappe gedoen het om die handeling of versuim te voorkom; en
 - (c) 'n handeling of versuim, hetsy wettig of onwettig, van die ten laste gelegde aard op geen voorwaarde of onder geen omstandighede binne die bestek van die bevoegdhede of diens van die betrokke bestuurder, verteenwoordiger, agent, werknemer of lid geval het nie, 15
- en die feit dat sodanige prinsipaal opdragte uitgereik het waarvolgens 'n handeling of versuim van daardie aard verbied word, is op sigself nie voldoende bewys dat hy alle redelike stappe gedoen het om die handeling of versuim te voorkom nie. 20
- (2) Wanneer 'n prinsipaal uit hoofde van subartikel (1) aanspreeklik is vir 'n handeling of versuim van 'n bestuurder, verteenwoordiger, agent, werknemer of lid van sy gesin, is daardie bestuurder, verteenwoordiger, agent, werknemer of lid ook daarvoor aanspreeklik asof hy die betrokke prinsipaal is. 25
- (3) Die bepalings van subartikel (2) onthef nie 'n bestuurder, verteenwoordiger, agent, werknemer of lid in daardie subartikel beoog, van enige ander aanspreeklikheid wat hy opgeloop het afgesien van die aanspreeklikheid wat hy met die betrokke prinsipaal deel nie. 30
- (4) By die toepassing van hierdie artikel in enige vervolging is getuienis dat enige artikel op die tydstip van die ten laste gelegde handeling of versuim in besit of onder bewaring, toesig, beheer of versorging was van 'n bestuurder, verteenwoordiger, agent, werknemer of lid van die gesin van 'n prinsipaal, *prima facie*-bewys dat die betrokke prinsipaal eienaar van die betrokke artikel is. 35

Vermoedens en bewys**56C.** By 'n vervolging kragtens hierdie Wet—

- (a) word enige hoeveelheid van wyn of spiritus wat in of op 'n plek, perseel of vervoermiddel is, wanneer 'n monster daarvan ooreenkomstig die bepalings van hierdie Wet geneem word, geag van dieselfde samestelling as daardie monster te wees, en in alle ander opsigte dieselfde eienskappe as daardie monster te besit, tensy die teendeel bewys word; 40
- (b) is 'n verklaring of inskrywing wat vervat is in 'n boek of stuk wat deur iemand of die bestuurder, agent of werknemer van so iemand gehou word, of wat gevind word op of in 'n plek of perseel geokkupeer deur, of 'n vervoermiddel gebruik in die besigheid van, so iemand, toelaatbaar as getuienis teen so iemand as 'n erkenning van die feite uiteengesit in daardie verklaring of inskrywing, tensy daar bewys word dat so 'n verklaring of inskrywing nie deur so iemand of deur die bestuurder, agent of werknemer van so iemand, in die loop van sy werk as bestuurder of in die loop van sy agentskap of diens gemaak is nie; en 45
- (c) word daar vermoed, tensy die teendeel bewys word, dat 'n permit, magtiging, toestemming, goedkeuring, sertifikaat of ander stuk nie uitgereik, gegee of verleen is nie aan iemand van wie daar ingevolgel hierdie Wet vereis word om in besit daarvan te wees.” 50 55

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

“Vicarious liability

56B. (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 to omit to do such act, that principal shall be deemed himself to have done or omitted to do the act, unless he satisfies the court that—

- (a) he neither connived at nor permitted the act or omission by the manager, representative, agent, employee or member concerned;
- (b) he 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 of itself not be sufficient proof that he 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 family, that manager, representative, agent, employee or member shall also be liable therefor as if he 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 may have incurred apart from the liability which he 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 a principal, shall be *prima facie* proof that the principal concerned is the owner of the article concerned.

Presumptions and evidence

56C. In any prosecution under this Act—

- (a) any quantity of the wine or spirit in or upon any place, premises or conveyance when a sample thereof is taken in accordance with the provisions of this Act shall, unless the contrary is proved, be deemed to be of the same composition as the sample, and to possess in all other respects the same properties as that sample;
- (b) 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 as an admission of the facts set forth in that statement or entry, unless it is proved 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 work as manager or in the course of his agency or employment; and
- (c) it shall be presumed, unless the contrary is proved, 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 is required to be in possession thereof.”.

Wet No. 87, 1990**WYSIGINGSWET OP BEHEER OOR WYN EN SPIRITUS, 1990****Herroeping van artikel 57 van Wet 47 van 1970, soos ingevoeg deur artikel 29 van Wet 74 van 1974**

36. Artikel 57 van die Hoofwet word hierby herroep.

Kort titel en inwerkingtreding

37. (1) Hierdie Wet heet die Wysigingswet op Beheer oor Wyn en Spiritus, 1990, 5
en tree in werking op 'n datum wat die Staatspresident by proklamasie in die
Staatskoerant bepaal.

(2) Verskillende datums kan kragtens subartikel (1) ten opsigte van verskillende
bepalings van hierdie Wet bepaal word.

WINE AND SPIRIT CONTROL AMENDMENT ACT, 1990

Act No. 87, 1990

Repeal of section 57 of Act 47 of 1970, as inserted by section 29 of Act 74 of 1974

36. Section 57 of the principal Act is hereby repealed.

Short title and commencement

37. (1) This Act shall be called the Wine and Spirit Control Amendment Act, 1990, 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.

