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REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

VOL. 335

CAPE TOWN, 7 MAY 1993

No. 14787

KAAPSTAD, 7 MEI 1993

STATE PRESIDENT'S OFFICE

No. 784. 7 May 1993

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

No. 58 of 1993: Groot Constantia Trust Act, 1993.

KANTOOR VAN DIE STAATSPRESIDENT

No. 784. 7 Mei 1993

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

No. 58 van 1993: Wet op die Groot Constantia-trust, 1993.

ACT

To make provision for the incorporation of the Groot Constantia Control Board as an association not for gain; for the transfer of the Groot Constantia Estate to the said association; and for matters in connection therewith.

*(Afrikaans text signed by the State President.)
(Assented to 29 April 1993.)*

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

Definitions

1. In this Act, unless the context otherwise indicates—
 - (i) “board” means the Groot Constantia Control Board established by section 2 of the Groot Constantia State Estate Control Act, 1975 (Act No. 24 of 1975); (v)
 - (ii) “Companies Act” means the Companies Act, 1973 (Act No. 61 of 1973); (iii)
 - (iii) “company” means the association not for gain contemplated in section 2; (ii)
 - (iv) “estate” means the Groot Constantia Estate as defined in section 3; (i)
 - (v) “Minister” means the Minister of Agriculture. (iv)

Incorporation of board as association not for gain

2. (1) The board shall, within three months of the date of commencement of this Act, request the registrar of companies in writing to incorporate the board in terms of the Companies Act as an association not for gain referred to in section 21 of the Companies Act, under the name Groot Constantia Trust. 15

(2) The request shall be accompanied by the memorandum of association and articles of association of the proposed company, duly signed on behalf of the board and approved by the Minister. 20

(3) If the memorandum of association and articles of association referred to in subsection (2) have been so signed and approved they shall, as far as the signing thereof is concerned, be deemed to comply with the requirements of the Companies Act for the registration, in terms of the said Act, of any such memorandum and articles. 25

(4) (a) On receipt of the said request and the memorandum and articles so signed and approved, the registrar of companies shall register the memorandum and articles in accordance with section 63(1) of the Companies Act and he shall in accordance with section 64(1) of that Act endorse thereon a certificate that the company is incorporated. 30

(b) No fee shall be payable in terms of the Companies Act in respect of the reservation of the name of the company, the registration of the said memorandum and articles and the issue of the certificate to commence business.

(c) The registrar of companies may, in order to comply with the provisions of this subsection, issue such directives and authorize such departures from the regulations promulgated under the Companies Act and the forms prescribed by that Act as he may deem necessary. 35

(5) Notwithstanding section 285 of the Companies Act and notwithstanding the date of incorporation of the company, the first financial year of the company shall be deemed to be the year commencing on 1 July preceding the date of the incorporation of the company. 40

WET

Om voorsiening te maak vir die inlywing van die Groot Constantia-beheerraad as 'n vereniging sonder winsoogmerk; vir die oordrag van die Groot Constantia-landgoed aan genoemde vereniging; en vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 29 April 1993.)*

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

Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
- 5 (i) “landgoed” die Groot Constantia-landgoed soos omskryf in artikel 3;
(iv)
(ii) “maatskappy” die vereniging sonder winsoogmerk in artikel 2 beoog;
(iii)
10 (iii) “Maatskappywet” die Maatskappywet, 1973 (Wet No. 61 van 1973);
(ii)
(iv) “Minister” die Minister van Landbou; (v)
(v) “raad” die Groot Constantia-beheerraad ingestel by artikel 2 van die
Wet op Beheer van die Groot Constantia-staatslandgoed, 1975 (Wet
No. 24 van 1975). (i)

15 Inlywing van raad as vereniging sonder winsoogmerk

2. (1) Die raad versoek die registrateur van maatskappye binne drie maande van die datum van inwerkingtreding van hierdie Wet skriftelik om die raad as 'n vereniging sonder winsoogmerk in artikel 21 van die Maatskappywet bedoel, ingevolge die Maatskappywet in te lyf onder die naam Groot Constantia-trust.
- 20 (2) Die versoek moet vergesel gaan van die akte van oprigting en statute van die beoogde maatskappy, onderteken namens die raad en goedgekeur deur die Minister.
- (3) Indien die akte van oprigting en statute bedoel in subartikel (2) aldus onderteken en goedgekeur is, word hulle, wat betref die ondertekening daarvan,
25 geag te voldoen aan die vereistes van die Maatskappywet vir die registrasie, ingevolge genoemde Wet, van so 'n akte en statute.
- (4) (a) By ontvangs van genoemde versoek en die akte en statute aldus onderteken en goedgekeur, registreer die registrateur van maatskappye die akte en statute ooreenkomstig artikel 63(1) van die Maatskappywet en hy endosseer
30 ooreenkomstig artikel 64(1) van daardie Wet 'n sertifikaat daarop dat die maatskappy ingelyf is.
- (b) Geen geld is ingevolge die Maatskappywet betaalbaar nie ten opsigte van die reservering van die naam van die maatskappy, die registrasie van genoemde akte en statute en die uitreiking van die sertifikaat om met besigheid te begin.
- 35 (c) Die registrateur van maatskappye kan, ten einde aan die bepalinge van hierdie subartikel te voldoen, die voorskrifte uitreik en die afwykings van die regulasies uitgevaardig kragtens die Maatskappywet en die vorms deur daardie Wet voorgeskryf, magtig wat hy nodig ag.
- (5) Ondanks artikel 285 van die Maatskappywet en ondanks die datum van
40 inlywing van die maatskappy, word die eerste boekjaar van die maatskappy geag die jaar te wees wat begin op 1 Julie wat die datum van inlywing van die maatskappy voorafgaan.

Groot Constantia Estate

3. The Groot Constantia Estate consists of—
- (a) those portions of land registered under Deed of Transfer No. 217/1885 dated 19 October 1885 and described as—
 - (i) the Remainder of the farm No. 911, division of the Cape, in extent 9,5668 ha; 5
 - (ii) the farm No. 913, division of the Cape, in extent 16,4547 ha;
 - (iii) the Remainder of Portion 2 of the farm No. 1094, division of the Cape, in extent 76,6067 ha;
 - (b) State forest land which has been withdrawn from demarcation by Government Notice No. 1645 dated 18 August 1978 and described as Portion of Groot Constantia, Component 2 of Tokai State Forest 129, division of the Cape, in extent 22,1725 ha; 10
 - (c) the farm Coleyn, known as Erf 2761, Constantia, division of the Cape, in extent 16,1069 ha; 15
 - (d) the farm Nova, known as Erf 7395, a portion of Erf 2607 Constantia, division of the Cape, as described on diagram 9215/75, in extent 11,1492 ha;
 - (e) the farm Hoop op Constantia, known as Erf 6601, portion of Erf 2744 Constantia, division of the Cape, in extent 6,0641 ha; and 20
 - (f) the Remainder of portion of Erf 2744 Constantia, division of the Cape, in extent 6,5953 ha.

Effect of incorporation of board as company

4. (1) From the date of incorporation of the company contemplated in section 2(4)(a)— 25
- (a) the ownership of the estate and all assets, liabilities, rights and obligations shall devolve from the State and the board, respectively, upon the company without any transfer duty, stamp duty, office fee or other fee being payable in respect thereof;
 - (b) the liabilities and obligations of the State in relation to the estate shall devolve upon the company: Provided that any obligation in respect of the maintenance or restoration of the estate which on that date has already been undertaken by the State or to which the State has bound itself, shall not devolve upon the company; and 30
 - (c) anything done by or on behalf of or in respect of the board shall be deemed to have been done by or on behalf of or in respect of the company. 35
- (2) The ownership of the estate devolving upon the company in terms of subsection (1)(a) or reverting to the State in terms of section 5 shall be transferred to the company or the State, as the case may be, without payment of transfer duty, stamp duty or any other moneys or costs, but subject to any existing right, encumbrance, duty or trust on or over that property. 40
- (3) The officer in charge of a deeds office or other office where the estate is registered, shall, on submission to him of the title deed concerned, make such endorsements on that title deed and such entries in his registers as may be required to effect the transfer concerned. 45
- (4) The company shall not alienate or encumber with mortgage the estate or any part thereof.
- (5) The incorporation of the company shall not affect anything lawfully done by the board or the State in relation to the estate before the incorporation. 50

Reversion of ownership of estate to State under certain circumstances

5. The ownership of the estate shall, notwithstanding the provisions of section 21 of the Companies Act, revert to the State without payment by the State of compensation therefor in the event of the liquidation, deregistration or dissolution of the company. 55

Groot Constantia-landgoed

3. Die Groot Constantia-landgoed bestaan uit—
- (a) daardie gedeeltes grond geregistreer kragtens Transportakte No. 217/1885 gedateer 19 Oktober 1885 en wat beskryf word as—
 - 5 (i) die restant van die plaas No. 911, afdeling Kaap, groot 9,5668 ha;
 - (ii) die plaas No. 913, afdeling Kaap, groot 16,4547 ha;
 - (iii) die restant van gedeelte 2 van die plaas No. 1094, afdeling Kaap, groot 76,6067 ha;
 - 10 (b) Staatsbosgrond wat kragtens Goewermentskennisgewing No. 1645 gedateer 18 Augustus 1978 aan demarkering onttrek is en wat beskryf word as gedeelte van Groot Constantia, Samestellende Gedeelte 2 van Tokai-staatsbos 129, afdeling Kaap, groot 22,1725 ha;
 - (c) die plaas Coleyn, bekend as Erf 2761, Constantia, afdeling Kaap, groot 16,1069 ha;
 - 15 (d) die plaas Nova, bekend as Erf 7395, 'n gedeelte van Erf 2607 Constantia, afdeling Kaap, soos beskryf op diagram 9215/75, groot 11,1492 ha;
 - (e) die plaas Hoop op Constantia, bekend as Erf 6601, gedeelte van Erf 2744 Constantia, afdeling Kaap, groot 6,0641 ha; en
 - 20 (f) die resterende gedeelte van Erf 2744 Constantia, afdeling Kaap, groot 6,5953 ha.

Uitwerking van inlywing van raad as maatskappy

4. (1) Vanaf die datum van inlywing van die maatskappy beoog in artikel 2(4)(a)—
- 25 (a) gaan die eiendom van die landgoed en alle bates, laste, regte en verpligtinge van onderskeidelik die Staat en die raad oor op die maatskappy sonder dat enige herereg, seëlreg, kantoorgeld of ander geld ten opsigte daarvan betaalbaar is;
 - (b) gaan die laste en verpligtinge van die Staat met betrekking tot die landgoed oor op die maatskappy: Met dien verstande dat enige verpligting ten opsigte van die onderhoud of restourasie van die landgoed wat op daardie datum reeds deur die Staat onderneem is of waartoe die Staat hom verbind het, nie op die maatskappy oorgaan nie; en
 - 30 (c) word enigiets wat gedoen is deur of namens of ten opsigte van die raad, geag deur of namens of ten opsigte van die maatskappy gedoen te gewees het.
 - 35 (2) Die eiendom van die landgoed wat ingevolge subartikel (1)(a) op die maatskappy oorgaan of ingevolge artikel 5 aan die Staat terugval, word aan die maatskappy of die Staat, na gelang van die geval, oorgedra sonder betaling van herereg, seëlreg, of enige ander gelde of koste, maar onderworpe aan enige
 - 40 bestaande reg, beswaring, verpligting of trust op of oor daardie goed.
 - (3) Die beamppte in beheer van 'n aktekantoor of ander kantoor waarin die landgoed geregistreer is, moet, by voorlegging aan hom van die betrokke titelbewys, die aantekeninge op daardie titelbewys en die inskrywings in sy registers aanbring wat nodig is om die oordrag te bewerkstellig.
 - 45 (4) Die maatskappy mag nie die landgoed of enige gedeelte daarvan vervreem of met verband beswaar nie.
 - (5) Die inlywing van die maatskappy raak nie enigiets wat wettig deur die raad of die Staat voor die inlywing met betrekking tot die landgoed gedoen is nie.

50 Terugval van eiendom van landgoed aan Staat onder sekere omstandighede

5. Ondanks die bepalinge van artikel 21 van die Maatskappywet val die eiendom van die landgoed terug aan die Staat sonder dat die Staat vergoeding daarvoor betaal indien die maatskappy gelikwideer, gederegistreer of ontbind word.

Exemption

6. The provisions of the Liquor Act, 1989 (Act No. 27 of 1989), shall not be applicable in respect of any person who under the provisions of the memorandum of association and articles of association of the company sells wine from the estate on behalf of the company. 5

Restaurant

7. For the purposes of the Liquor Act, 1989 (Act No. 27 of 1989), anyone who conducts or manages a restaurant on the estate shall be deemed to hold a restaurant liquor licence mentioned in section 20(a)(ii) of that Act, in respect of that restaurant. 10

Repeal of laws

8. (1) The laws mentioned in the Schedule are hereby repealed to the extent indicated in the third column thereof.

(2) Subsection (1) shall come into operation on the date of incorporation contemplated in section 2(4)(a). 15

Short title

9. This Act shall be called the Groot Constantia Trust Act, 1993.

Vrystelling

6. Die bepalings van die Drankwet, 1989 (Wet No. 27 van 1989), is nie van
toepassing nie ten opsigte van iemand wat kragtens die bepalings van die akte
van oprigting en statute van die maatskappy namens die maatskappy wyn vanaf
5 die landgoed verkoop.

Restaurant

7. By die toepassing van die Drankwet, 1989 (Wet No. 27 van 1989), word
iemand wat 'n restaurant op die landgoed dryf of bestuur, geag 'n restaurant-
dranklisensie genoem in artikel 20(a)(ii) van daardie Wet te hou ten opsigte van
10 daardie restaurant.

Herroeping van wette

8. (1) Die wette in die Bylae vermeld, word hierby herroep in die mate in die
derde kolom daarvan aangedui.

(2) Subartikel (1) tree in werking op die datum van inlywing in artikel 2(4)(a)
15 beoog.

Kort titel

9. Hierdie Wet heet die Wet op die Groot Constantia-trust, 1993.

LAWS REPEALED

No. and year of law	Short title	Extent of repeal
Act No. 24 of 1975	Groot Constantia State Estate Control Act	So much as has not been repealed.
Act No. 57 of 1975	General Law Amendment Act	Section 49.
Act No. 11 of 1979	Groot Constantia State Estate Control Amendment Act	The whole.
Act No. 41 of 1989	Groot Constantia State Estate Control Amendment Act (House of Assembly)	The whole.

WETTE HERROEP

No. en jaar van wet	Kort titel	In hoeverre herroep
Wet No. 24 van 1975	Wet op Beheer van die Groot Constantia-staatslandgoed	Soveel as wat nog nie herroep is nie.
Wet No. 57 van 1975	Algemene Regswysigingswet	Artikel 49.
Wet No. 11 van 1979	Wysigingswet op Beheer van die Groot Constantia-staatslandgoed	Die geheel.
Wet No. 41 van 1989	Wysigingswet op Beheer van die Groot Constantia-staatslandgoed (Volksraad)	Die geheel.



