

Disclaimer:

This document is a summary of the relevant legislation provided for general informational purposes only. It is not a substitute for the original Act, nor does it constitute legal advice. While every effort has been made to ensure the accuracy of the information provided, the Drinks Federation of South Africa (DF-SA) makes no representations or warranties, express or implied, regarding its completeness or accuracy. Users are strongly encouraged to consult the full text of the legislation and seek professional legal advice where necessary. DF-SA shall not be held liable for any loss, damage, or consequences arising from reliance on this summary.

Summary of the Liquor Products Act, 1989¹

The Liquor Products Act, No. 60 of 1989², is an Act published by the State President on May 30, 1989. Its primary purpose is to establish **control over the sale and production for sale of certain alcoholic products**, regulate their **composition and properties**, and govern the **use of specific details in connection with their sale**. Additionally, it provides for the **establishment of schemes and control over the import and export of certain alcoholic products**, along with connected matters. The Act was assented to on May 17, 1989.

Here's a summary of its key provisions:

- **Core Purpose and Scope**
 - The Act aims to regulate alcoholic products with an alcohol content of more than one percent for drinking purposes, unless specifically excluded. It explicitly excludes beer, sorghum beer (as defined in the Liquor Act, 1989), and medicine (as defined in the Medicines and Related Substances Control Act, 1965) from its provisions.
 - "*Liquor product*" is a defined term within the Act, encompassing wine, alcoholic fruit beverages, spirits, grape-based liquors, spirit-based liquors, specially authorised liquors, and any other liquor for which an import certificate has been issued.
- **Key Definitions**
 - **Alcohol content:** Refers to the percentage of ethyl alcohol per volume of the product.
 - **Advertisement:** Any written, visual, or oral statement intended to promote the sale or use of a liquor product.
 - **Container:** A receptacle with a capacity not exceeding 5 litres.
 - **Label:** Any printing or writing on or attached to a container.
 - **Sell:** Includes agreeing to sell, offering, advertising, keeping, exposing, transmitting, sending, conveying, or delivering for sale, or exchanging or disposing of for consideration.
- **Wine and Spirit Board**
 - **Establishment:** The Act establishes a juristic person known as the Wine and Spirit Board.
 - **Appointment of Members:** Members are appointed by the Minister of Agriculture and include persons nominated by the "*Ko-operatiewe*

¹ Source: Google NotebookLM

² Source: https://www.saflii.org/za/legis/consol_act/lpa1989215/

Disclaimer:

This document is a summary of the relevant legislation provided for general informational purposes only. It is not a substitute for the original Act, nor does it constitute legal advice. While every effort has been made to ensure the accuracy of the information provided, the Drinks Federation of South Africa (DF-SA) makes no representations or warranties, express or implied, regarding its completeness or accuracy. Users are strongly encouraged to consult the full text of the legislation and seek professional legal advice where necessary. DF-SA shall not be held liable for any loss, damage, or consequences arising from reliance on this summary.

Wijnbouwers Vereniging van Zuid-Afrika, Beperkt," the Cape Wine and Spirit Institute, officers of the department, and officers involved in oenological and viticultural research. The chairman is determined by the Minister after consultation with the nominating bodies, and a vice-chairman is elected from other members.

- **Qualifications and Disqualifications:** Members must be South African citizens permanently resident in the Republic. Disqualifications include being an unrehabilitated insolvent, having more than one conviction under this Act, or being convicted of an offence leading to imprisonment without a fine option.
 - **Term of Office:** Officers serve at the Minister's pleasure; other members serve for up to five years and can be reappointed.
 - **Meetings and Quorum:** The majority of members constitute a quorum, and decisions are by majority vote, with the chairman having a casting vote in case of a tie.
 - **Committees:** The board can appoint committees, and the Government Brandy Board (from the repealed Wine, Other Fermented Beverages and Spirits Act, 1957) is deemed a committee known as the Brandy Evaluation Committee.
 - **Functions:** In addition to functions assigned by the Act or a scheme, the board can acquire/dispose of property, raise loans, insure itself, enter agreements for services, make recommendations to the Minister, and generally perform acts necessary for its functions. Its work is performed by appointed staff or those with whom it has agreements.
 - **Funds and Financial Management:** The board's funds come from money paid under the Act or a scheme and other sources. It uses funds for expenses, must open a bank account, and can invest surplus money. Financial records and annual statements must be kept, audited, and submitted to the Minister, with copies open to public inspection.
- **Administering Officer**
 - The Minister designates an officer in the Department of Agricultural Economics and Marketing as the administering officer, who exercises powers and carries out duties under the Minister's control and instructions.
 - The administering officer can delegate powers or duties to other officers, and their decisions are deemed those of the administering officer unless withdrawn or amended.

Disclaimer:

This document is a summary of the relevant legislation provided for general informational purposes only. It is not a substitute for the original Act, nor does it constitute legal advice. While every effort has been made to ensure the accuracy of the information provided, the Drinks Federation of South Africa (DF-SA) makes no representations or warranties, express or implied, regarding its completeness or accuracy. Users are strongly encouraged to consult the full text of the legislation and seek professional legal advice where necessary. DF-SA shall not be held liable for any loss, damage, or consequences arising from reliance on this summary.

- **Requirements and Restrictions on Liquor Products**

- **General Sale Restriction:** No product with an alcohol content over one percent for drinking purposes may be sold or produced for sale unless it is a liquor product.
- **Wine:** Must be produced from fresh grapes of a prescribed cultivar, by alcoholic fermentation of undiluted juice, or by adding a prescribed grape-derived spirit. It must comply with prescribed requirements and substance limits. No unauthorised substances may be added or removed.
- **Alcoholic Fruit Beverages:** Produced from the juice of fresh fruit (usually a single kind, not grapes), by alcoholic fermentation of fresh or reconstituted juice, using prescribed processes, and meeting specific class requirements and substance limits. Unauthorised additions or removals are prohibited.
- **Spirits:** Produced by distillation or redistillation of a fermented vegetable article, meeting prescribed class requirements and substance limits. Unauthorised additions are prohibited.
- **Grape-based Liquors:** Produced from grapes with complete or partial alcoholic fermentation, treated in a prescribed manner, or by adding/removing prescribed substances, complying with class requirements and substance limits. Unauthorised additions or removals are prohibited.
- **Spirit-based Liquors:** Produced by treating a spirit or adding a prescribed substance, complying with class requirements and substance limits. Unauthorised additions are prohibited.
- **Specially Authorised Liquors:** The Minister can authorise the sale or production of sacramental beverages or alcoholic beverages from fermented orange juice and cane sugar. Such authorisation requires a liquor license (for the orange juice beverage) and adherence to specific conditions regarding production, volume, designation, alcohol content, processes, substances, and record-keeping. Existing permissions from previous acts are deemed valid under this Act but require annual maintenance payments to continue.

- **Use of Particulars, Labels, and Descriptions**

- **Labelling:** Containers must have prescribed particulars indicated in the prescribed manner.
- **Prohibited/Restricted Words:** Restrictions apply to the use of "wine," "spirit," "alcoholic fruit beverage," "grape-based liquor," "spirit-based liquor," and "specially authorised liquor" unless they are part of the applicable class designation. Class designations must be accurate. Alcohol

Disclaimer:

This document is a summary of the relevant legislation provided for general informational purposes only. It is not a substitute for the original Act, nor does it constitute legal advice. While every effort has been made to ensure the accuracy of the information provided, the Drinks Federation of South Africa (DF-SA) makes no representations or warranties, express or implied, regarding its completeness or accuracy. Users are strongly encouraged to consult the full text of the legislation and seek professional legal advice where necessary. DF-SA shall not be held liable for any loss, damage, or consequences arising from reliance on this summary.

content must be indicated as a percentage per volume. Use of country names implying a false origin is prohibited.

- **Wine-Specific Particulars:** Unless authorised by a scheme, the use of geographical names, vine cultivar designations, vintage year particulars, or words like "*estate*," "*vineyard*," "*origin*," or "*vintage*" in connection with wine sales is restricted. The Minister can publish lists of known areas and cultivars and extend these provisions to other liquor products.
 - **General Prohibitions:** The Minister can prohibit or reserve the use of any word, expression, or representation in connection with liquor product sales.
 - **Exemptions:** Regulations may prescribe permissible additions/transformations to class designations and grant exemptions from certain prohibitions.
 - **Trademarks/Company Names:** The Act does not restrict the use of registered trade marks or company/co-operative/corporation names that were registered, used, or established before the Act's commencement, unless they contain words like "*estate*," "*landgoed*," "*vineyard*," or "*wingerd*".
 - The board and administering officer can object to the registration of such trademarks or names.
 - **False/Misleading Descriptions:** It is prohibited to use any description that conveys a false or misleading impression about a liquor product's nature, quality, composition, origin, or production. Alleged contraventions can be referred to an appeal board if the person agrees.
 - **Filing of Labels:** Producers must file two specimens of each label used with the administering officer within a prescribed period. Labels approved by the board under a scheme are filed by the board.
- **Schemes**
 - **Establishment:** The Minister may establish schemes for wine, brandy, or grape-based liquor, upon recommendation from the board, to further regulate production and sale, including authorisations for using specific particulars.
 - **Administration:** Schemes are administered by the Wine and Spirit Board.
 - **Provisions:** A scheme can define its objects, applicable liquor products, and particulars that can be authorised. It can provide for defining areas under specific names, outline requirements for authorisations, and contain directives on raw materials, production processes, substance additions/removals, quality control, container types, and labelling.

Disclaimer:

This document is a summary of the relevant legislation provided for general informational purposes only. It is not a substitute for the original Act, nor does it constitute legal advice. While every effort has been made to ensure the accuracy of the information provided, the Drinks Federation of South Africa (DF-SA) makes no representations or warranties, express or implied, regarding its completeness or accuracy. Users are strongly encouraged to consult the full text of the legislation and seek professional legal advice where necessary. DF-SA shall not be held liable for any loss, damage, or consequences arising from reliance on this summary.

Schemes may also determine fees, charges, and conditions for refusal of services or exclusion from participation.

- **Existing Definitions:** Definitions of areas under particular names from the repealed Wine, Other Fermented Beverages and Spirits Act, 1957, remain in force and are deemed part of new schemes.
- **Importation and Exportation**
 - **Import Restriction:** Products with an alcohol content over one percent for drinking purposes cannot be imported without an import certificate from the administering officer, with exceptions for beer, sorghum beer, medicine, diplomatic imports, and small consignments for prescribed purposes.
 - **Import Certificate Conditions:** Issued only if the product is a specified liquor product (wine, alcoholic fruit beverage, spirit, grape-based, spirit-based) and labels comply with requirements. It may also be issued for other products if they meet substance limits, are fully labelled, and the board recommends it.
 - **Non-compliance:** Illegally imported products may be removed from the Republic, treated to comply with the Act, or forfeited to the State and destroyed, with costs recoverable from the importer.
 - **Export Restriction:** Products with an alcohol content over one percent for drinking purposes cannot be exported without an export certificate, with exceptions for beer, sorghum beer, medicine, and products for prescribed purposes/countries or small consignments.
 - **Export Certificate Conditions:** Issued if the product is a liquor product or can be legally sold in the destination country, and if required by regulation, is found suitable for export by the board.
- **Enforcement and Legal Provisions**
 - **Powers of Entry, Investigation, and Sampling:** Authorised persons (administering officer, board employees, or agents) can enter premises without notice, bring assistants, demand assistance, examine/test products, inspect operations, take samples, and examine documents. They cannot demand secret formulas. Samples must be submitted to an analyst.
 - **Seizures:** Authorised persons can seize products, materials, or documents believed to be involved in an offence or intended for one, and attach identification marks. Seized items may be treated, returned, or forfeited to the State.

Disclaimer:

This document is a summary of the relevant legislation provided for general informational purposes only. It is not a substitute for the original Act, nor does it constitute legal advice. While every effort has been made to ensure the accuracy of the information provided, the Drinks Federation of South Africa (DF-SA) makes no representations or warranties, express or implied, regarding its completeness or accuracy. Users are strongly encouraged to consult the full text of the legislation and seek professional legal advice where necessary. DF-SA shall not be held liable for any loss, damage, or consequences arising from reliance on this summary.

- **Analysis:** The Director-General designates qualified analysts to test samples according to prescribed methods. Results are recorded on a certificate.
- **Secrecy:** Information acquired during official functions under the Act is confidential and cannot be disclosed except for legal proceedings or with the Minister's consent.
- **Appeals:** Persons affected by decisions of the administering officer or board can appeal to an appeal board appointed by the Director-General. The appeal board consists of a legal expert as chairman and two nominees from the appellant and the officer/board. The board's decision is binding and can confirm, set aside, amend, or refer back the original decision.
- **Offences and Penalties:** The Act outlines various offences, including contravening requirements for liquor products, false labeling, obstructing officers, refusing information, tampering with samples or seized items, and falsely representing oneself as an analyst. Penalties vary by offence and conviction number, ranging from fines (e.g., up to R8,000 for first major offences) to imprisonment (e.g., up to two years for first major offences).
- **Presumptions and Evidence:** Certain presumptions apply in prosecutions, such as the composition of a sample representing the whole product and the validity of analyst certificates as prima facie proof.
- **Forfeitures:** Courts can order forfeiture of relevant liquor products or articles to the State upon conviction.
- **Vicarious Liability:** A principal can be held liable for acts or omissions of their manager, agent, employee, or family member if it would be an offence for the principal, unless certain conditions (e.g., taking all reasonable steps to prevent the act) are met. The manager/agent also remains liable.
- **Regulations and Discretionary Powers:** The Minister can make regulations on various matters, including control of substances, designations, production processes, raw materials, sampling, registration, appeal procedures, prohibited practices, record-keeping, and fees. The administering officer or board can conduct investigations, extend periods, and impose/amend/withdraw conditions for approvals.
- **Delegation of Powers:** The Minister and Director-General can delegate certain powers to department officers.
- **Limitation of Liability:** No person or the State is liable for acts or omissions done in good faith under the Act or a scheme.

Disclaimer:

This document is a summary of the relevant legislation provided for general informational purposes only. It is not a substitute for the original Act, nor does it constitute legal advice. While every effort has been made to ensure the accuracy of the information provided, the Drinks Federation of South Africa (DF-SA) makes no representations or warranties, express or implied, regarding its completeness or accuracy. Users are strongly encouraged to consult the full text of the legislation and seek professional legal advice where necessary. DF-SA shall not be held liable for any loss, damage, or consequences arising from reliance on this summary.

- **Repeals and Amendments**

- The Act repeals several previous laws, including the Restriction on the Importation of Wine and Spirits Act, 1921, and various Wine, Other Fermented Beverages and Spirits Acts.
- It also amends the Customs and Excise Act, 1964, and the Wine and Spirit Control Act, 1970, by replacing references to the "*Government Brandy Board*" with the "*Wine and Spirit Board*".
- Furthermore, it amends the Liquor Act, 1989, to align definitions of "*alcoholic fruit beverage*," "*brandy*," "*liquor*," "*spirit*," and "*wine*" with the new Liquor Products Act.

The Act's short title is the Liquor Products Act, 1989, and it came into operation on a date fixed by the State President.