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THE PRESIDENCY

No. 1262

24 November 2008

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

No. 32 of 2008: Liquor Products Amendment Act, 2008.



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GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 17 November 2008.)

ACT

To amend the Liquor Products Act, 1989, so as to insert definitions and to amend and delete others; to provide for the composition of the Wine and Spirit Board; to amend the requirements regarding wine; to extend the particulars required in connection with the sale of liquor products in containers; to empower the Minister to prohibit the use of geographical names under certain circumstances; to make other provisions for the establishment of schemes; to curtail the board's power regarding the import and export of liquor products; to provide for compliance with international obligations; and to extend the Minister's power to make regulations; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 60 of 1989

1. Section 1 of the Liquor Products Act, 1989 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution for the definition of “**container**” of the following definition: 5
“‘**container**’ means a [**receptacle**] container with a capacity not exceeding [**5**] five litres”;
- (b) by the substitution for the definition of “**department**” of the following definition: 10
“‘**department**’ means the Department of [**Agricultural Economics and Marketing**] Agriculture”;
- (c) by the substitution for the definition of “**grapes**” of the following definition: 15
“‘**grapes**’ means fruit of plants of *Vitis* [**vinifera**]”; and
- (d) by the insertion after the definition of “**import certificate**” of the following definition:
“‘**international obligations**’ includes the Trade-Related Intellectual Property Rights or the Wine and Spirit Agreement”.

Amendment of section 2 of Act 60 of 1989, as amended by section 1 of Act 11 of 1993**2. Section 2 of the principal Act is hereby amended—**

(a) by the substitution for subsection (2) of the following subsection:

“(2) (a) The board consists of—

- (i) at least eight persons with the relevant knowledge, skills or expertise in viticulture, oenology, distilling, regulatory environment of the liquor industry, liquor production, food safety or microbiology; 5
- (ii) three officers of the Department nominated by the Department; 10
- (iii) one person nominated by the Agricultural Research Council; and
- (iv) one person designated by the Minister. 10

(b) The Minister shall appoint the members of the board contemplated in paragraph (a)(i) subject to paragraph (d), and shall designate one of the members of the board as chairperson.

(c) The Minister shall notify Parliament in writing of the appointment of the members of the board within 30 days after such an appointment. 15

(d) The process for the appointment of the members of the board shall be as follows:

- (i) The Minister shall, by notice in the *Gazette* and in any national newspaper circulating in every province of the Republic, invite persons, stakeholders and the industry to submit to the Minister, within a period mentioned in the notice, the names of persons who comply with the criteria referred to in paragraph (a)(i); 20
- (ii) the Minister shall establish a selection committee consisting of at least four persons and designate a chairperson for the committee; 25
- and
- (iii) the selection committee shall, from the nominations submitted to it, compile a short-list of eligible candidates and submit its recommendation to the Minister for the appointment of members to the board.”; 30

(b) by the substitution for subsection (3) of the following subsection:

“(3) No person shall be appointed as a member **[or alternate member]** of the board—

- (a) unless he or she is a South African citizen permanently resident in the Republic; 35
- (b) if he or she is an unrehabilitated insolvent;
- (c) if he or she has **[more than once]** been convicted of an offence under this Act; or
- (d) if he or she has been convicted of any offence for which he or she has been sentenced to imprisonment without the option of a fine.”; 40

(c) by substitution for subsection (4) of the following subsection:

“(4) (a) A member **[or an alternate member]** of the board shall hold **[his]** office, subject to **[the provisions of]** subsection (5).—

- (i) **in the case of an officer, at the Minister's pleasure; and**
- (ii) **in any other case, for such period, but] for a period not exceeding [five years, as the Minister may determine at the time of appointment of that member or alternate member] three years,** 45
and such member **[or alternate member]** shall after the expiration of **[the said] such period, continue in office [for a further period, but not exceeding three months,]** until his or her successor has been appointed. 50

(b) If a member **[or an alternate member]** of the board ceases to hold office for any reason, the Minister may, subject to **[the provisions of]** subsection (2), appoint any person in his or her place for the unexpired period of his or her term of office. 55(c) Any person whose term of office as a member **[or alternate member]** of the board has expired, shall immediately thereafter be eligible for reappointment without complying with the process contemplated in subsection (2)(d).(d) A member of the board may not serve more than two consecutive terms.”; 60