I assent.

(L.S.) GUIDO DE MARCO
President

23rd October, 2001

ACT No. XXII of 2001

AN ACT to provide for the control of the production, importation, marketing and advertising of wine and wine related products.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title and commencement.

1. (1) The short title of this Act is Wine Act, 2001.

(2) This Act shall come into force on such date as the Minister responsible for Agriculture may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and for different provisions of this Act.

Interpretation.

2. In this Act, and in any regulations made thereunder, unless the context otherwise requires -

"analyst" means any duly qualified person or persons or any duly qualified institution on whom the Minister may, by regulation, on the advice of the Board, from time to time, allocate the responsibilities of analyses or examination of wines and wine related products and "analysis" shall be construed accordingly;

"artificial wine" means a beverage which fails to conform with the provisions of this Act and with any regulation or order made thereunder in one or more aspects;

"Authority" means the Malta Standards Authority established by the Malta Standards Authority Act; Cap. 419.

"Board" means the Wine Regulation Board established under article 16;

"Department" means the Department of Agriculture;

"Director" means the Director of Agriculture and includes, to the extent of the authority given, any officer authorised by him, in writing, to act in that behalf for any of the purposes of this Act;

"Enforcement Authority" means the Board or the Department or any other Government department as may be allocated responsibility by regulations made under this Act, or is otherwise responsible, for the control of wine and wine related products;

"importation" includes withdrawal from bond and "imported" shall be construed accordingly;

"Malta" has the same meaning as is assigned to it by article 124 of the Constitution of Malta;

"Minister" means the Minister responsible for Agriculture and includes, to the extent of the authority given, any officer authorised by him, in writing, to act in that behalf for any of the purposes of this Act;

"oenological practices and processes" means those practices and processes used in the production of wine and wine related products specified under this Act;

"person" includes any partnership, association of persons, or legal entity;

"planting rights" means the right given to a grower to plant vines for the purpose of establishing new vineyards, for varietal reconversion and for the renewal of vines, in specific areas over a determined period of time;

"producers' organisation" means an organisation which is recognised as such, being a voluntary legally constituted body of producers of particular wine and wine products or persons engaged in the viticultural and, or in oenological industries, acting together to produce, harvest, process, store, package and market their products;

"public weigher" means a person licensed under Part III of the Cap. 39 Weights and Measures Ordinance;

"quality wines" includes wines produced in specified regions;

"registration" includes a trading licence or any registration required by the Board or by the Department and any other licence as may be required by regulations made under this Act;

"sale" means the disposal of possessions or of ownership under any title whatsoever, and "to sell" shall be construed accordingly;

"specified region" means a vine-growing area or a combination of vine-growing areas which produces wine grapes with particular quality characteristics and whose name is used to designate quality wine;

"vintner" means any person who produces wine and must to be sold, and includes, where applicable, with reference to the marketing of wine and must, any merchant other than a retailer;

"wine" and "wine related products" are the products obtained exclusively from the total or partial alcoholic fermentation of fresh grapes, whether or not crushed, or of grape must, officially certified to be produced exclusively from authorised or recommended grape varieties;

"winery" means any premises in which wine is prepared, processed and stored before it is sold or offered for sale.

Licensing of vintners.

3. (1) No person shall prepare, make or bottle locally produced or imported wine and wine related products for sale, without a valid licence issued by the Director against payment of the fee as may be prescribed by regulations made under this article by the Minister on the advice of the Board.

(2) Any licence issued under subarticle (1) shall be valid up to the 31st December of the year of its issue and shall be renewed from year to year unless such licence is cancelled or revoked under the provisions of this Act.

(3) Any application for the issue of a licence under subarticle (1) shall be made to the Director on the prescribed form obtainable from the Department and shall contain all such information as the Director may require.

(4) The Director may, before granting or refusing any licence or any renewal thereof, consult the Board.

(5) Any licence issued under subarticle (1) shall refer to one particular winery only.

(6) Any person who engages in the operation of an unlicensed

winery shall be guilty of an offence.

(7) Any licensed person who fails to comply with the provisions of this Act shall be guilty of an offence.

Appeal to Appeals Board.

4. Where the issue or renewal of a licence has been refused, the Director shall inform the applicant forthwith of such refusal and the applicant may appeal therefrom to an Appeals Board constituted of three persons as may be appointed by the Minister.

Registration of vineyards and growers.

5. (1) A Register of Vineyards shall be kept by the Director and shall be periodically up-dated to provide accurate information on areas under vine production and to estimate the wine potential.

(2) The Department shall establish a graphic reference base covering the entire area under vine production in the form of a map indicating the exact location and area of vineyards, and this graphic base shall be kept regularly up-dated to show the trends in areas under vine production.

(3) No person shall produce grapes for wine production or use any land for the growing of grapes for wine production unless the person is registered as a grower and the land under vine is registered with the Department.

(4) The Minister may, acting on the advice of the Board, make rules for the registration of vine varieties providing for the classification of such vine varieties into recommended varieties, authorised varieties and temporarily authorised varieties.

(5) Only grapes belonging to varieties listed in the classification established in accordance with subarticle (4) as recommended or authorised varieties, or production derived therefrom, may be used for the manufacture of -

(a) grape must with fermentation arrested by the addition of alcohol;

(b) concentrated grape must;

(c) rectified concentrated grape must;

(d) tablewine;

(e) quality wine (produced in specified regions);

(f) liqueur wine;

(g) sparkling wine:

Provided that the Director may, on the advice of the Board, authorise that grapes from varieties classified as temporarily authorised shall also be regarded as suitable for yielding the products listed in this subarticle.

(6) Fresh grapes, grape must, grape must in fermentation, new wines still in fermentation and wine from vine varieties not included in the classification may not be placed in circulation or used in the production of wine and wine-related products.

Types of wines.

6. The Minister may, by regulation and with the advice of the Board, determine the types of wines and wine related products that may be produced, imported or sold as well as the constituents thereof and the minimum alcoholic strength of each type.

Beverages under the designation of wine.

7. No beverage shall be imported or sold in Malta as wine or under the designation of wine unless it conforms with the provisions of this Act and with any regulations made thereunder.

Artificial wine.

8. No person may produce, import, sell or offer for sale as wine any artificial wine.

Rules governing oenological practices and other processes.

9. The Minister may, with the advice of the Board, make rules:

(a) governing oenological practices and processes that may be used for production and preservation of wines and wine related products;

(b) governing the blending and mixing of musts and wines;

(c) establishing purity and identification specifications for substances to be used in oenological practices and processes;

(d) setting up the practices and processes which are to be carried out only under the responsibility of a person recognised by the Department with sufficient oenological knowledge to ensure the quality and wholesomeness of the wine or wine product;

(e) establishing the conditions under which unauthorised practices and processes may be applied for experimental purposes;

(f) establishing practices and processes concerning the enrichment, acidification, deacidification and sweetening, and

concerning the sulphur dioxide content and the maximum volatile acid content in wines.

Weighing of grapes

10. (1) Owners of locally harvested grapes for pressing shall cause the grapes to be weighed by a public weigher on harvesting.

(2) Public weighers shall, immediately after having weighed any grapes in accordance with the provisions of subarticle (1), furnish the party or parties concerned with a note on the appropriate prescribed form obtainable from the Department.

(3) A copy of every note of weight furnished as provided in subarticle (2) shall be forwarded by the public weigher concerned to the Director within thirty days from the date of weighing.

(4) Records submitted by a public weigher must include information on variety and origin.

Records, returns and statements by vintners and growers.

11. (1) Producers of grapes for wine-making registered with the Department shall, each year before the 31st October, on the appropriate prescribed form obtainable from the Department, declare the quantities of the different varieties of grapes produced from the last harvest:

Provided that the Minister may, on the advice of the Board, fix a different date for harvest declaration provided it is not later than the 31st December of the year in question.

(2) The Director may, at any time, require by notice any vintner to furnish him, within such time prescribed in the notice, with a statement showing the number of hectolitres of wine and of muted grape must held by him on the particular day or on particular days as may be specified in the notice.

Quality wines produced in specified regions

12. (1) The Minister may, acting on the advice of the Board, make regulations laying down specific provisions for quality wine produced in specified regions and for products suitable for yielding a quality wine.

(2) Each specified region shall be precisely demarcated, as far as possible, on the basis of the individual vineyard or vineyard plot; such demarcation shall take into account the factors which contribute towards the quality of the wines produced in those regions, such as the nature of the soil and sub-soil, the climate and the situation of the individual vineyard or vineyard plot.

(3) The Minister, acting on the advice of the Board, shall

authorise the department to -

(a) draw up a list of authorised or recommended vine varieties of the species Vitis vinifera suitable for producing each of the quality wines produced in specified regions; and

(b) lay down the provisions regarding local vine-growing methods which are required to ensure the best possible quality for local quality wine.

Production of quality wine.

13. (1) Quality wine may be produced only -

(a) from grapes of vine varieties which appear on the approved or recommended lists and which are harvested within the specified region; or

(b) by processing grapes referred to in paragraph (a) into grape must and processing the must thus obtained into wine, as well as by the production of such wine within the specified region where the grapes used were harvested.

(2) Notwithstanding the provisions of subarticle (1)(b), a quality wine may be produced in an area in close proximity to the specified region concerned, where this has been expressly authorised by the Board, subject to conditions which the Board may deem fit to impose.

(3) The Board may authorise a vintner to produce quality wine by processing grapes into must and must into wine, as well as by producing such wine, even outside an area in immediate proximity to the specified region where grapes used were harvested

Regulations regarding labelling, etc., of wine and wine related products.

14. The Minister may, acting on the advice of the Board, make regulations -

(a) governing the labelling, marking, presenting and advertising of wine and wine related products and the descriptions which may be applied to wine and wine related products produced locally or imported; and

(b) specifying the information required in documents accompanying the transport of wine and wine related products.

Imported wine.

15. (1) All wine imported in bulk shall be entered in a Customs or other bonded warehouse and shall, prior to its release, be bottled under Customs supervision and control.

(2) Every person who withdraws from Customs or other bonded warehouse any imported wine bottled in Malta, shall keep a register showing -

(a) the number of bottles, with their capacity, withdrawn and the date of withdrawal;

(b) the type and the alcoholic strength of the wine withdrawn.

Wine Regulation Board.

16. (1) There shall be a Board to be known as the Wine Regulation Board, which shall consist of a Chairman, a Deputy Chairman and seven other members, who shall be appointed by the Minister to sit on the Board for a period of three years, as follows:

(a) the Director of the Department ex *officio*, as Chairman;

(b) two senior technical or scientific officers of the Department, one of whom shall be appointed Deputy Chairman;

(c) four members from among commercial vintners and, or from producers organisations; and

(d) two members from among registered vine growers.

(2) The Minister shall designate an officer of the Department to act as Secretary to the Board.

(3) The Board shall have the power to -

(a) act notwithstanding any vacancy in its composition;

(b) set up specialised sub-committees for the purpose of dealing with matters requiring specialised knowledge or experience.

(4) A person shall not be eligible to be appointed a member of the Board, or to continue to be a member of the Board, if such person -

(a) is a member of the House of Representatives; or

(b) is legally incapacitated; or

(c) has been declared bankrupt or has made a composition with his creditors; or

(d) has been convicted of -

(i) any crime affecting public trust; or

(ii) theft; or

(iii) fraud; or

(iv) knowingly receiving property obtained by theft or fraud; or

(v) any offence against this Act or any regulations made thereunder.

(5) Notwithstanding any of the provisions of subarticle (4), the Minister may terminate the appointment of an appointed member, if in his opinion, such member is unfit to continue in office or is or has become incapable of properly performing his functions.

Functions of the Board.

17. The functions of the Board shall be:

(a) to advise the Minister in the making of policies regulating the viticultural and oenological sector, and on any regulations made under this Act;

(b) to initiate, develop and keep under review regulations made or to be made under this Act;

(c) to monitor and keep under review the proper implementation, functioning or attainment, to the highest standards achievable, of the purposes of this Act and of Government policy for the wine sector;

(d) to participate in ensuring the highest standard possible for Malta in the wine sector and to co-operate and co-ordinate as necessary with Government departments and other bodies in the achievement of these aims;

(e) to provide the Minister with technical, scientific, legal and other advice in the field of wine and wine related products, as the Minister may from time to time request;

(f) to initiate and participate in research, surveys, programmes, and other activities as may be deemed necessary for the attainment of the optimum level of wine and wine related products and control and to prepare and maintain the necessary resources and data bases for carrying out this task; and

(g) to perform any other functions or duties and to exercise such further powers or responsibilities as are assigned

to it in this Act or any other law and as the Minister may from time to time determine.

Procedure of the Board.

18. (1) Subject to any rules which the Minister may prescribe, the Board shall regulate its own procedure.

(2) Without prejudice to any rules prescribed under subarticle (1) the Board shall meet at least six times a year.

(3) The Board shall report to the Minister and shall prepare and present to the Minister an annual report.

(4) All expenses in respect of the Board shall be met by the Department.

Appointment of authorised officers.

19. (1) The Minister may, on the advice of the Board, designate public officers to be authorised officers for the control of wine and wine related products.

(2) No person, who is engaged directly or indirectly in any business related to wine or wine related products, shall act as an authorised officer; and no public officer shall be engaged directly or indirectly in any business related to wine or wine related products.

(3) An authorised officer shall have the power, at any reasonable time, to enter and inspect any premises in or at which he has reason to believe that any wine is being produced, bottled, stored, sold or offered for sale, to examine and search such premises, to inspect any such wine and to take samples thereof:

Provided that an authorised officer shall not enter into any dwelling unless authorised by a Magistrate.

(4) An authorised officer shall have the right of access to, and inspection of, any registers, records and notes kept in accordance with the provisions of this Act or of regulations made thereunder.

(5) Any authorised officer exercising any power conferred by subarticle (3) may -

(a) seize and obtain any records which he has reason to believe may be required as evidence in proceedings under any of the provisions of this Act or of regulations made thereunder; and

(b) in the case where the records are kept by means of a computer, require the records to be printed.

(6) Any authorised officer who discloses to any person any information obtained by him in the course of his duties with regards to any trade secret, shall, without prejudice to any other liability under any other law, unless the disclosure is made necessarily in the performance of his duty, be guilty of an offence.

(7) Any person who -

(a) intentionally obstructs or causes the obstruction of any person acting in the proper exercise of his functions under this Act; or

(b) without reasonable cause, fails to give to any person acting in the exercise of his functions under this Act, any assistance or information which he may be required to give under this or any other law, or gives false or misleading information,

shall be guilty of an offence.

Taking of samples.

20. (1) Whenever any sample of wine or of a wine related product is taken for analysis, such sample shall be taken free of charge, against the issue of an official receipt.

(2) From time to time, the Minister shall, should it be deemed necessary, determine the procedure to be followed for the taking of samples.

(3) Samples taken in accordance with subarticle (2) shall be subject to analysis by one or more of the official methods of analysis as established by the Minister for the purpose, on the advice of the Board.

Harvesting dates and fixing of minimum prices for local harvests.

21. (1) The Director may, on the advice of the Board, by order published in the Gazette, establish in respect of each variety and for each year the date or dates on which the harvesting of locally grown grapes intended for the production of wine may commence:

Provided that, in special cases, the Director may at his discretion, authorise in writing any particular grower to start harvesting on a different date

(2) The Director may take such steps as he may deem necessary for the supervision of the purchase of grapes by vintners and or ensuring compliance with any order made by him.

Planting rights and varietal reconversion.

22. The Minister may make regulations for the establishment of planting rights for the purpose of establishing new vineyards, for

varietal reconversion and for the renewal of vines aimed at -

(a) planting more market oriented vines to produce more marketable quality wine;

(b) relocation of vineyards;

(c) adopting new production and management techniques;

(d) encouraging young entrants to the sector;

(e) promoting the role of producer organisations in the sector to target supply to demand, reduce production costs and promote the use of environmentally sound practices; and

(f) introducing measures for land consolidation compatible with the protection and improvement of the environment, the landscape and its features, natural resources and genetic diversity.

National inventory of wine-growing potential.

23. The Minister may make regulations for the establishment of a national inventory of wine-growing potential comprising an inventory of the following -

(a) areas under vines;

(b) varieties planted;

(c) planting rights;

(d) management techniques; and

(e) average yields.

Legal proceedings.

24. (1) In any criminal proceedings instituted by the Police before the Court of Magistrates for an offence under this Act, the Director or any officer, lawyer or legal procurator deputed by the Director or any other enforcement authority may, notwithstanding any law to the contrary, lay the charge before the Court, produce evidence, plead and otherwise conduct the prosecution instead of the Police.

(2) The sworn statement of any officer, lawyer or legal procurator to the effect that he has been deputed as provided in subarticle (1) shall be conclusive evidence of the fact, should proof thereof be required by the accused.

25. Criminal action for an offence under article 19(7) shall be barred by the lapse of three months. Prescription for offence under article 19(7).

26. (1) A person found guilty of an offence under this Act shall be liable to a fine (*multa*) of not less than two hundred liri and not exceeding two thousand liri. Penalties.

(2) A person found guilty of a subsequent offence under this Act, shall on conviction, be liable to a fine (*multa*) of not less than five hundred liri and not exceeding five thousand liri.

(3) Upon conviction for any offence under this Act, other than a conviction for an offence under article 19(7), the court may also, at the request of the prosecution, revoke or suspend any registration issued in respect of the person so found guilty, or the premises forming the subject of the proceedings.

(4) Where any person is found guilty of an offence under article 19(7), he shall, in addition to the punishment laid down in subarticles (1) or (2), be liable to a penalty of not less than fifty liri per day from the date of the conviction to the date in which such person desists from obstructing or causing obstruction or gives the assistance or information required, as the case may be.

(5) Any person found guilty of an offence under this Act shall, upon an application by the enforcement authority after the sentence, be ordered by the Court to pay the enforcement authority the costs incurred by it for the prosecution and proving of the offence, including any inspection which led to the prosecution.

(6) No appeal shall lie from a decision of the court under subarticle (5). Any sum awarded by way of costs by such a decision shall be recoverable as a civil debt and that decision shall be an executive title in like manner as if it were included among the executive titles contained in article 253 of the Code of Organization and Civil Procedure. Cap. 12

27. Without prejudice to any other provision of this Act, the Minister may make regulations for giving effect to any of the provisions of this Act and, without prejudice to the generality of the foregoing, any regulations may, in particular - Power to make regulations.

(a) prescribe the fees payable for registration under this Act;

(b) prescribe the conditions under which registration may be granted or renewed;

(c) control the importation, production, bottling and sale of wines;

(d) lay down rules to prohibit the over-pressing of grapes and the pressing of wine lees and the refermentation of grape marc;

(e) lay down rules for the distillation of surplus unmarketable quantities of table wine;

(f) provide for the appointment and power of analysts and the procedure for taking samples and the methods of analysis;

(g) prescribe the requirements, in addition to those prescribed by or under the Food, Drugs and Drinking Water Act, to which any premises used for the production of wine have to conform; and Cap. 231

(h) prescribe any other thing that may or is to be prescribed under this Act.

Codes of Practice and guidelines.

28. The Minister may issue codes of recommended or best practice as regards the execution and enforcement of this Act and of regulations and orders made thereunder for the guidance of the Board, or of any person or persons, or class or group of persons, who is or are engaged in the execution and enforcement of this Act and of regulations and orders made thereunder.

Documentation.

29. (1) The Minister may by regulations prescribe the form of any document to be used for the purposes of this Act.

(2) Any document purporting to bear the signature of an officer, who is expressed to hold an office by virtue of which he is under this article empowered to sign such a document or to be duly authorised by the Enforcement Authority to sign such a document shall, for the purposes of this Act, and of any regulations or orders made thereunder, be deemed to have been duly given, made or issued by authority of the Enforcement Authority.

Regulations authorising charges to be imposed

30. The Minister may make regulations requiring or authorising charges to be imposed by the enforcement authority with regards to actions taken by the enforcement authority under this Act or regulations made thereunder, or regulations in the field of wine and wine related products control.

Applicability of provisions of this Act.

31. (1) The provisions of this Act shall apply, in respect of the sector which it governs, without prejudice to the provisions of any

treaties or other international agreements entered into or acceded to by Malta, and with the provisions of any acts binding force of which derives from any such treaty or agreement.

(2) The Minister shall, in the exercise of the powers conferred to him by this Act, ensure, with respect to the sector governed by this Act, Malta's compliance with the provisions of treaties or other international agreements entered into by Malta and with the provisions of any laws, the binding force of which derives from any such treaty or agreement.

(3) The Minister may, in the observance of any requirements arising under subarticle (2), make regulations granting rights to, and imposing obligations upon, any entity or body or association of persons whether it has a legal personality distinct from that of its members or not.

Repeal and saving. Cap. 211.

32. (1) The Wine Act is hereby repealed.

(2) Notwithstanding the provisions of subarticle (1), any subsidiary legislation made under the provisions of the Wine Act therein mentioned shall, until other provision is made under or by virtue of this Act, continue in force and have effect as if made under this Act.

Passed by the House of Representatives at Sitting No. 621 of 17th October, 2001.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives