

Q & A:

TRANSFORMATION IN THE SOUTH AFRICAN WINE INDUSTRY



A collaboration between:



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***Note: This document is compiled and supported by the South African Wine Industry and its partners, Vinpro, WoSA, SALBA, SAWIS and WIETA. The information contained herein will require regular updates. Please highlight any information that is out of date by emailing info@wosa.co.za.*

1 LABOUR PRACTICES

1.1 Are workers allowed to join a union?

- Yes, all farm workers are entitled to join a union of their choice.
- The right to join a union is governed by law (e.g. Labour Relations Act; the Constitution).
- If producers do not allow freedom of association then they are acting illegally.
- Producers can be prosecuted for contraventions and are routinely inspected by the government.

1.2 Do you recognise unions?

- Yes. Union recognition is negotiated between the employer and employees through their union.
- A registered union must prove substantive membership (usually 25%+) before the union can be recognized and enjoy certain rights, eg. deduction of membership fees and must have 50+ 1% members to negotiate wages.

1.3 Why are some workers afraid to join a union?

- Workers who have joined unions, often feel that they have not seen the benefit of belonging to certain trade unions despite paying monthly union membership.
- They believe that their interests as workers aren't always served with certain unions.
- Workers may join unions who are also affiliated to certain political parties and may avoid union membership where unions are too politically vocal.
- Workers often want to protect their homes and livelihoods and do not want to be affiliate to those unions who may have a more militant approach to industrial relations.
- Unions have at times been perceived to be associated with divisive means of resolving issues that are global South African labour issues and not within the power of the wine firm to resolve. The wine industry finds itself in a post-liberation process that is a national one and not necessarily in its own business' sphere of influence to change, or of its own making in the first place. Some workers recognize this concern.
- Unions have, in some cases been implicated in arson and life-threatening actions in an attempt to effect outcomes which are often outside the sphere of influence that some firms have. Workers recognize this.
- Employers who share the above two perceptions will at times deem worker association with certain unions as being a means with which to bully the employer into making concessions that are beyond their means or beyond their sphere of responsibility. Unhealthy tensions are often avoided by workers who will then choose not to join unions for this reason.

1.4 Do workers get paid for overtime work?

- Workers are entitled to overtime pay.
- Not paying workers overtime is an offence and is routinely inspected by the relevant government functionaries.

1.5 If you were to be made aware of instances where farmers prevent workers from joining a union, what action have you taken against those farmers?

- Ethical audits are conducted on farms to ensure workers' rights are protected. These include that workers are not prevented from joining a union.
- Audits are conducted by independent bodies.
- The Department of Labour oversees that labour requirements are complied with, which includes the right of affiliation with a union.
- Depending on the contravention, either corrective action is taken or severe transgressions are prosecuted.
- Ethical bodies are alerted to such a claim and have routinely carried out spot checks to ensure that such matters are resolved.
- Wine suppliers may be excluded from local and international markets for severe offences.

1.6 Which audits verify that farm workers can freely join a union?

- Ethical audits that investigate worker conditions include Fairtrade and the Wine Industry Ethical Trade Association (WIETA)
- Countries that wines are exported to also have their own ethical audits.
- Some international and local retailers also audit labour conditions before buying South African wine.
- The wine industry supports all the ethical audits as we are committed to protecting workers' rights.

2 WAGES

2.1 What is the minimum wage?

- On 1 January 2019, the National Minimum Wage was set at R162.00 per day for farms and wine estates and R180.00 per day for cellars.

2.2 How many farmers comply with the minimum wage?

- All farmers are expected to comply with the minimum wage and we are not aware of any that do not comply.
- Non-compliance is a criminal offence.

2.3 Do farmers pay above the minimum wage?

- There are many farmers who pay above minimum wage.
- The minimum wage only acts as a safety net for mostly entry-level and seasonal employees and is often supplemented with production bonuses.
- A study conducted during the 2016 harvest season by the Cape Agri Employers Organisation indicated that the 2,956 workers that were included, were on average paid 15% more than the minimum wage.

2.4 Why do farmers make deductions from salaries?

- All employers are entitled to make salary deductions that are agreed with workers.
- These may include cost of housing, and electricity costs.
- Some deductions are compulsory; e.g. Unemployment Insurance.

2.5 How do you regulate farmers who don't comply?

- Non-compliance is usually picked up in independent ethical audits.
- Some civil society organisations working in the wine sector sometimes bring this to our attention.
- Unions also report offences.
- Ultimately, the Department of Labour has an overview of labour conditions on farms.
- The wine industry supports all ethical audits.
- Some wine suppliers are excluded from local and international markets for severe offences.

2.6 Many workers say you are ineffective in reprimanding farmers. Is this true?

- We have set up mechanisms to monitor and reprimand offenders.
- Industry organisations cannot fulfil the role of law enforcement.
- For minor offences organisations like the Wine Industry Ethical Trade Association (WIETA) adopt a corrective approach to save jobs and grow the industry.
- Where offences are illegal the law must take its course and we don't have jurisdiction over that.

2.7 How do you pay workers who are seasonal?

- Some seasonal workers are paid in cash, but mostly by Electronic Transfers (EFT's).
- They are paid weekly.
- Time has to be recorded.

2.8 The wine industry employs about 300,000 workers. Does this include seasonal workers?

- Yes, this figure is made up of permanent, seasonal and part-time workers.

2.9 South Africa has the highest levels of inequalities in the world. How do you justify the massive inequality between workers and owners?

- The wine industry is competing on a global level and to remain competitive sometimes
- costs are reduced, so labour is reduced and mechanisation is introduced. It's both positive and negative.
- The minimum wage is determined by all stakeholders including government.
- The minimum wage is not decided by farmers and some pay above the minimum wage.
- Ultimately the market determines what wages can be tolerated.
- Inequality is not unique to the wine industry.

3 FETAL ALCOHOL SPECTRUM DISORDERS (FASD)*

3.1 How prevalent is it?

- FASD is unacceptably high in South Africa.
- SA figures are amongst the highest reported in the world.

3.2 What are you doing to stop it?

- The industry invests in support programmes to educate vulnerable persons.
- There are also sponsors from the private sector and government departments who are funding FASD awareness, prevention and research projects.
- Aware.org.za is registered as a non-profit organisation (NPO) with the Department of Social Development and is focused on the prevention of the negative consequences of alcohol abuse. There are rehabilitation programmes in place.
- Full time social workers are employed by the wine industry to help those affected.
- Alcohol abuse is common in many communities, and not confined to the wine sector.

3.3 Does the dop-system contribute to FASD?

- The dop-system is unlawful.
- It was outlawed in 1960.
- It might have contributed to the creation of a drinking legacy in some communities, but it is certainly not one of the main causes of FASD in South Africa. If it was, there should have been a remarkable decrease in the FASD rate since the dop-system was stopped. In the research done by the Foundation for Alcohol Related Research (FARR) since 1997 in Gauteng, Free State and the Western, Eastern and Northern Cape provinces, only 3% of the participants indicated that they or their parents have ever been involved in the dop-system and all of these cases were before 2000.

3.4 How do you manage pregnant women working on farms?

- Working conditions of pregnant women is governed by the Basic Conditions of Employment Act and other relevant laws.
- There are a number of research, awareness and prevention projects offered by mainly FARR and FASfacts which are funded by a number of sponsors.

3.5 FASD incidents are the highest reported in the world. How did you get here?

- Regrettably, alcohol abuse is prevalent in many communities.
- Apartheid caused significant harm to family structures and matters of self-worth amongst rural families.
- We have made some progress in addressing many of the social problems, including FASD, but a lot of work in terms of education is still to be done.
- Based on research findings from FARR, the main reason for alcohol use and abuse during pregnancy in rural (including farming) and other urban communities are:
 - Unaware of pregnancy (78% of pregnancies in SA are unplanned. Women therefore continue to use alcohol as before, not realizing that they are pregnant.)
 - Lack of knowledge regarding FASD, as well as the harmful effects of alcohol abuse.
 - Peer group pressure, especially from partners, immediate family and close friends.
 - Drink to 'forget' or 'dull the pain'.
 - Depression.
 - Drink 'because that's the way we do it'.

* Information supplied by the Foundation for Alcohol Related Research (FARR)

4 DOP-SYSTEM

4.1 Do farmers pay workers with wine?

- No. The dop-system is unlawful.
- It was outlawed in 1960.
- We are not aware of workers being paid with wine. Such incidents are illegal and will be severely dealt with.

4.2 What mechanisms do you have in place to report farmers who pay workers with wine?

- This can be picked up through independent ethical audits. (eg. Fairtrade and WIETA).
- Some civil society organisations working in the wine sector can bring this to our attention.
- Unions may also report offences.
- Ultimately, the Department of Labour has an overview of labour conditions on farms.
- The wine industry supports all ethical audits.
- Wine suppliers will be excluded from local and international markets if they supply workers with wine.
- SAPS in the Western Cape province were requested to report any incidents directly to the Premier.

4.3 What action do you take against farmers?

- We have a zero-tolerance approach if any farmer were to be found paying workers with wine.
- The full extent of the law will prevail in such cases.
- Industry bodies, however, do not have the mandate to enforce the law and will report such offences to law enforcement authorities.

4.4 How do you protect whistle blowers who report farmers?

- A complaints process is in place with the ethical standards authority (WIETA).
- Any workers or stakeholders can use this anonymous process to report complaints.
- The Wine Industry Value Chain Round Table is multi-stakeholder structure, with representation from the wine industry, unions and labour, as well as government. This structure has introduced the Rapid Response Unit, which is a mechanism provided to handle anonymous complaints.

4.5 Are farmers allowed to sell wine to workers?

- Several farms do sell wine from their tasting rooms or restaurants as part of their tourism offering. It is not illegal to sell wine to a farm worker.
- Workers are not prohibited from buying wine on farms.

5 HOUSING

5.1 Whose responsibility is it to provide housing?

- That of government and that of employees, but farmers are given the responsibility if it is necessary for employees to be housed on the farm.

5.2 Do farmers provide electricity and water?

- Farmers are expected to provide clean water and electricity for workers if they are housed on the farm.

5.3 Can farmers deduct cost of electricity and water from wages?

- Yes, farmers can deduct costs from wages.
- Water is normally supplied free of charge and electricity may be deducted if measured.
- Workers must be informed of the deductions and what they are for.

5.4 Do you have minimum standards for housing?

- Yes, the ethical codes outline the minimum conditions for housing.

5.5 Why do most farm workers live in shacks?

- Most farm workers do not live in shacks. They live in houses.
- Seasonal workers sometimes live in informal settlements off the farm. Providing accommodation is not the responsibility of the farmer.
- Informal settlements are often a symptom of the migrant labour practices that have a long history under apartheid.

5.6 What facilities do farmers have for children?

- Some farms have crèches and schools.
- In many cases farmers pay for the schooling of children as well as provide transport to local schools.
- Playgrounds and other recreational and educational facilities are common.

5.7 How do you monitor to check that housing is adequate?

- The quality of housing can be picked up in independent ethical audits.
- Some civil society organisations working in the wine sector bring this to our attention.
- Unions also report offences.
- The Department of Human Settlements with provincial and local government have an overview of housing.
- The wine industry supports all ethical audits.
- Some wine suppliers are excluded from local and international markets for severe offences.

6 CERTIFICATION / AUDITS

6.1 What ethical audits do you have?

- There are numerous ethical audits in the wine industry.
- These include, but are not limited to:
 - Wine Industry Ethical Trade Association (WIETA)
 - Global Social Compliance Programme (GSCP)
 - The Sustainability Initiative of South Africa (SIZA)
 - Fairtrade
 - Fair for Life
 - The Business Social Compliance Initiative (BSCI)

6.2 What do they audit?

- The audits check compliance against an internationally accepted set of codes.
- Some of the things they consider include:
 - Housing and tenure security.
 - Employment conditions (child labour, forced labour, fair disciplinary processes, working hours and minimum wage).
 - Health and safety.
 - Freedom of association and other relevant human rights.
 - Unfair discrimination.

6.3 Are audits announced?

- Scheduled audits are announced as this is a detailed interview and cite inspection.
- Unannounced audits are carried out when a complaint is laid in an area. WIETA is looking to introduce more regular unannounced audits.

6.4 Do you have your own ethical protocols?

- Some of our own ethical audits include:
 - Wine Industry Ethical Trade Association (WIETA)
 - Global Social Compliance Programme (GSCP)
 - The Sustainability Initiative of South Africa (SIZA)
 - The Business Social Compliance Initiative (BSCI)

6.5 There are 400-odd audits. How can I be sure they are authentic?

- Yes, there are many audits, which can get confusing.
- They are regulated by retail and government sanctioned codes and laws.
- They are independent.

6.6 Ethical labels are confusing. How can I be sure that I'm making the responsible choice?

- Ethical labels are one way in which consumers can satisfy themselves that they are making responsible choices.
- They audit both social and environmental issues.
- They are independent organisations.

7 GOVERNMENT

7.1 Is government doing anything to make the social problems better?

- The industry works very closely with Government.
- Many argue that government has to review the housing policy for farm workers.
- Social grants have helped some destitute communities.

7.2 What else can government be doing?

- Many argue that government has to review the housing policy for farm workers.
- We can improve skills development.
- Support for enterprise development in the wine industry.

7.3 Hasn't the lack of land reform contributed to the problem?

- Effective land reform will contribute to broaden ownership of land in the wine industry.

7.4 What is the WIVCRT?

- The Wine Industry Value Chain Round Table initiative is a partnership between government, the wine industry as well as labour and civil society groups. The aim of the WIVCRT is to foster collaborative industry-government actions that help to secure an enduring competitive advantage of the wine industry. The WIVCRT is envisaged to involve all critical role players within the entire wine value chain.

8 TRANSFORMATION / BEE

8.1 What training programmes do you have?

- Various training and development programmes are available, eg:
 - Black leadership development.
 - Social work support to vulnerable families.
 - Bursaries.
 - Technical production training. o Worker rights-based training. o Ethical codes training.
 - Health and safety training.
 - Life skills training.

8.2 How many workers have moved up to management and other positions? Is it common?

- Yes, it is common.
- Management and leadership development programmes have been successful.
- Several hundred personnel have moved into middle and farm management position as a result of training and development programmes.

8.3 Is share ownership by workers common in your industry?

- Yes, share ownership comprises the majority of black ownership in the industry.

8.4 What can be done to improve ownership or access to the industry?

- Credit lending models for enterprises.
- Improved Government land reform policies. Current land reform policies are not effective in intensive farming models and more effective in extensive farming models.

8.5 How many wine farms have BEE partners? Is it effective?

- Approximately 40 farms have BEE partners.
- Various other forms of empowerment are quite common.

8.6 Do you support enterprise development? How?

- Yes, enterprise development is supported.
- We facilitate access to grants and loan funding and provide free technical advice and training.
- We share best practice in methods of enterprise development through a dedicated consulting service.

8.7 How many brands are black owned?

- About 54 wine brands are black owned.

8.8 Is black ownership the answer to the socio-economic problems?

- In itself, it is not the solution to socio-economic problems.
- Socio-economic factors have several causal factors and solutions are multi-faceted involving several stakeholders.

8.9 Has this industry been slow to transform?

- Yes, given inherent barriers to entry in terms of market competitiveness and costs of capital.
- All new entrants struggle to sustain wine enterprises.
- A recent government study found that only 38% of land reform farms across the agricultural sector are legally compliant with labour laws.

8.10 What is Stronger Together?

- Stronger Together is a multi-stakeholder business-led initiative aiming to reduce modern slavery particularly forced labour, labour trafficking and other hidden third party exploitation of workers.
- Stronger Together offer a range of in-depth, specialist training opportunities on tackling modern slavery including open workshops, e-learning modules and bespoke in-house training.
- For more information, visit www.stronger2gether.org.

8.11 What is the Transformation Unit?

- The SA Wine and Brandy Industry Transformation Unit (TU) is a non-profit company which was constituted in 2016. The TU is a multi-stakeholder entity, duly mandated by the SA Minister of Agriculture to conceive, fund and oversee programmes that relate to Enterprise and Supplier Development, Skills Development and Socio Economic Development in the context of Black Economic Empowerment. It reports progress on achievements and planned activities to the National Agricultural Marketing Council (NAMC), whom in turn, provide guidelines to all subsectors in agriculture, on the nature of programmes which may be funded through statutory measures as determined under the auspices of the MAP Act of 1996 with subsequent amendments considered. The TU is comprised of 5 directors seats, namely NAMC, Vinpro, SALBA, Labour and Black Owned Brands. An independent chairperson is appointed in line the companies MOI.

9 TOXIC CHEMICALS

9.1 Are farm workers exposed to harmful chemicals?

- Workers can be exposed to harmful chemicals if health and safety regulations are not enforced.
- Strict laws and protocols govern chemical use (e.g. Occupational Health and Safety Act).

9.2 What training is provided?

- Training is compulsory for workers administering chemicals.
- Workers are taught how to store, administer and dispose of chemicals safely.
- Workers are taught about safety equipment such as gloves, masks, gumboots.
- No spraying is done when the wind blows to prevent chemical drift.
- No workers are allowed in vineyards when chemicals are applied, except those who are applying the chemicals.

9.3 How do you ensure farmers comply with protocols?

- This can be picked up through independent environmental and health and safety audits. (e.g. Fairtrade and WIETA)
- The wine industry supports all environmental and health and safety audits.
- Civil society organisations working in the wine sector can bring this to our attention.
- Unions also report offences.
- Wine suppliers are excluded from local and international markets for severe offenses.
- Retailers also enforce their own environmental and health standards.
- Health and safety compliance is managed by the Department of Labour.

9.4 How do you police the correct use of agro-chemicals?

- Audits help to ensure the correct use of chemicals.
- The Integrated Production of Wine (IPW) audit specifically entails agro-chemicals in terms of environmental sustainability.
- Retailers also enforce their own environmental and health standards.

9.5 What mechanisms are in place to ensure farmers comply with the Occupation Health and Safety Act?

- This can be picked up through independent environmental and health and safety audits. (e.g. Fairtrade and WIETA)
- The wine industry supports all environmental and health and safety audits.
- Some civil society organisations working in the wine sector can bring this to our attention.
- Unions also report offences.
- Wine suppliers are excluded from local and international markets for severe offences.
- Retailers also enforce their own environmental and health standards.
- Health and safety compliance is managed by the Department of Labour.

10 CONTACTS

For all matters relating to any of the above points, please refer them to the following bodies:

Wine Industry Ethical Training Association members (WIETA)

Call the toll free number: 0800 627 774

Email: info@wieta.org.za

Department of Labour – David Esau – David.Esau@labour.gov.za

and copy the following persons in:

john.jacobs@labour.gov.za

mark.samuels@labour.gov.za

fezeka.ngalo@labour.gov.za

Department of Labour contact number given to employees depends on the area in which they live or have access to:

Somerset West – 021 852 6535

Paarl – 021 872 2020/74

CCMA - 021 469 0111

Department of Agriculture – Getrude Jacobs – GertrudeJ@elsenburg.com

And copy Gertrude's assistant - meganc@elsenburg.com

For any legal assistance needed, we refer employees to the:

Legal Aid Clinic, University Stellenbosch (021 808 3600) or to any Legal Aid Board (Justice Centre) in their area.