

Version  
as at 1 July 2022



# Wine Regulations 2021

(SL 2021/401)

Cindy Kiro, Governor-General

## Order in Council

At Wellington this 29th day of November 2021

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 33, 38, 39, 54C, 54F, 54H, 119, and 119A and clause 5 of Schedule 1 of the Wine Act 2003—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Food Safety made after complying with section 115 of that Act.

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### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**These regulations are administered by the Ministry for Primary Industries.**

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## Regulations

### 1 Title

These regulations are the Wine Regulations 2021.

## 2 Commencement

- (1) These regulations, subject to subclauses (2) and (3), come into force on 1 July 2022.
- (2) Clause 2 of Schedule 1 comes into force on 28 February 2022.
- (3) Regulations 84 and 85 come into force on 1 July 2023.

## 3 Interpretation

In these regulations, unless the context otherwise requires,—

**accreditation body** means an organisation that provides accreditation services that entail an independent assessment and confirmation of competence to perform specific tasks

**Act** means the Wine Act 2003

**adopted joint food standard** has the meaning given in section 397 of the Food Act 2014

**area of origin**, in relation to a grape wine, means the region or locality (being a region or locality within a country) where the grapes used to make the wine were grown

**corrective action** includes an action—

- (a) to restore control; or
- (b) to identify any affected wine; and—
  - (i) ensure its fitness for intended purpose; or
  - (ii) manage its disposal; or
- (c) to prevent recurrence of a loss of control

**critical non-compliance** means a breach of a regulatory requirement that is reasonably likely to—

- (a) result in hazards in wine; or
- (b) result in wine that has false or misleading labelling; or
- (c) jeopardise access to overseas markets

**equipment** includes the whole or any part of any machine, fitting, device, instrument, apparatus, or article that is used or intended for use in relation to the making of wine

**essential services** includes the provision of electricity, gases for processing, lighting, ventilation, water, waste management, and other services essential to the making of wine

**evaluator** means a recognised person or recognised agency that is recognised under the Act to carry out independent evaluations of the validity of wine standards management plans and the validity of significant amendments to those plans

**loss of control** means that the operator of a wine business or a wine standards management plan—

- (a) has breached a regulatory requirement; or
- (b) is likely to breach a regulatory requirement unless corrective action is taken

**maintenance compound**, in relation to any winemaking premises or place, means any substance used for—

- (a) maintaining, repairing, servicing, cleaning, or sanitising facilities or equipment; or
- (b) treating water; or
- (c) pest control

**multi-business wine standards management plan** means a wine standards management plan approved under section 15 of the Act

**multi-site wine business** means a wine business that operates out of more than 1 premises or place

**multi-site wine standards management plan** means a wine standards management plan that applies to a multi-site wine business

**New Zealand grape wine** means wine that is made from grapes that were grown solely in New Zealand

**obvious fault**, in relation to wine, means that the wine is—

- (a) oxidised; or
- (b) tainted by extraneous flavours; or
- (c) malodorous

**package**, or **packaging**, means any container within which wine intended for trade (including export) is contained or packaged, including bottles, wine casks, cans, cartons, and bulk containers

**pest** includes rodents, insects, and other animals that are likely to introduce hazards to wine

**recognised laboratory** means a person recognised under the Act as an agency to carry out laboratory functions and activities in relation to wine

**regulatory requirement** includes any requirement lawfully made or imposed by or under the Act or the Food Act 2014, including the following:

- (a) regulations;
- (b) notices issued under section 120(1) of the Act;
- (c) supplementary notices;
- (d) other notices, and directions and conditions;
- (e) an adopted joint food standard

**restore control**, in relation to a wine business, means to ensure that the business is operating in a way that does not breach, nor is likely to breach, any regulatory requirements

**vintage**, in relation to wine, means the year in which the commodities used to make the wine were harvested

**waste** includes solids, liquids, and gases that the operator of a wine business intends to dispose of because they—

- (a) are unwanted; and
- (b) may become a source of hazards to wine or attract pests

**winemaking input** means anything used to make wine; and—

- (a) includes food additives and processing aids; but
- (b) does not include any commodity.

#### 4 **Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

### **Part 1**

## **Wine standards management plans**

### Subpart 1—Registration of wine standards management plan

#### *Contents of wine standards management plan*

#### 5 **Further contents of and requirements for wine standards management plan**

In addition to the requirements in section 14 of the Act, a wine standards management plan must set out the following information:

- (a) the trading name (if applicable) of the business;
- (b) the position, or name and position, of the person responsible for the day-to-day management of the plan;
- (c) the wine standards management plan identifier, when available;
- (d) in relation to the premises or place,—
  - (i) its physical address; or
  - (ii) if the premises are mobile, the location where the premises are based principally; or
  - (iii) if the premises are a vehicle, any vehicle registration number and the location where the vehicle is based principally.

## **6 Physical boundaries of wine standards management plan**

A wine standards management plan must—

- (a) identify the physical boundaries within which the plan applies; and
- (b) describe those boundaries in accordance with any method specified in a supplementary notice; and
- (c) identify any location, or activities that occur, within those boundaries if they are required to be identified by a supplementary notice; and
- (d) identify the location or activities in accordance with any method specified in a supplementary notice.

## **7 Procedures for safety standards and good operating practices**

A wine standards management plan must include procedures that are appropriate and effective in relation to the requirements of Parts 2 and 3.

## **8 Regime when other activities within physical boundaries of plan**

- (1) The operator of a wine standards management plan must ensure that the effectiveness of the plan is not compromised when a person uses areas within the physical boundaries of the plan for any activity that is not covered by the plan.
- (2) The plan must describe—
  - (a) how the interfaces between the plan and that activity, including the interfaces between the plan and any other plan or other regulatory regime, are managed; and
  - (b) the authorities and accountabilities for resolving any issues associated with that activity; and
  - (c) any wine or food that is within the physical boundaries but is not covered by the plan because—
    - (i) it is covered under a different wine standards management plan; or
    - (ii) it is covered under a different regulatory regime (for example, under the Food Act 2014).

### *Information required for registration*

## **9 Information requirements for all applications**

A person applying for registration of a wine standards management plan under the Act must—

- (a) provide a statement in writing indicating that the verifier or verifying agency has indicated it is prepared to carry out verification of the plan; and
- (b) ensure that the information provided with the application accurately represents that plan at that time.

**10 Part of wine standards management plan that may be provided with application**

For the purposes of section 18(1)(a)(ii) of the Act, an application for registration of a wine standards management plan under the Act must be accompanied by—

- (a) all the information referred to in section 14(1)(b) and (c) of the Act; and
- (b) information that demonstrates compliance with section 14(3)(a) to (c) of the Act; and
- (c) the parts of the plan that set out the information required by the following regulations:
  - (i) regulation 5;
  - (ii) regulation 6;
  - (iii) regulation 8; and
- (d) information specified in a supplementary notice.

*Significant amendment to wine standards management plan***11 Application to register significant amendment to wine standards management plan**

- (1) An application to register a significant amendment to a wine standards management plan must identify the significant amendment to the plan, and be accompanied by—
  - (a) either—
    - (i) all the information required under regulation 10; or
    - (ii) the whole wine standards management plan, as amended; and
  - (b) a copy of an independent evaluation report carried out no more than 6 months before the date of the application to register the amendment to the wine standards management plan; and
  - (c) any other information specified in a supplementary notice.
- (2) An operator of a wine business must ensure that the information lodged with the application accurately represents the plan at that time.
- (3) The Director-General may waive or modify the requirement to provide a copy of an independent evaluation report in a particular instance if—
  - (a) the wine standards management plan or part of the plan being amended is fully based on a template, model, or code of practice of the kind referred to in section 8(2) of the Act; or
  - (b) the wine standards management plan is a multi-business wine standards management plan; or

- (c) the risk of hazards to wine is negligible and the Director-General is satisfied that the nature of the wine business does not require an independent evaluation report to ensure validity in terms of sections 8 and 14 of the Act.

## **12 Significant amendment to wine standards management plan**

The kinds of amendments to a wine standards management plan that require registration as a significant amendment under section 22 of the Act are—

- (a) amendments that result from any of the following activities:
  - (i) alterations to premises or place, facilities, or equipment that may adversely affect the fitness for intended purpose of wine:
  - (ii) relocating a processing operation to a new physical address (except where this is already provided for in the wine standards management plan in relation to mobile premises or vehicles):
  - (iii) setting up a new process or process modification that is not covered by the wine standards management plan:
- (b) changes that introduce new risk factors, or have an adverse effect on existing risk factors:
- (c) merging the wine standards management plan with 1 or more other plans:
- (d) splitting the wine standards management plan into 2 or more wine standards management plans:
- (e) changes or additions of premises or place to which the wine standards management plan applies that affect the physical boundaries of the plan and could introduce new hazards:
- (f) making minor amendments that together have a cumulative effect on the fitness for intended purpose of wine or on the validity of the wine standards management plan.

### **Subpart 2—Obligations of operator of wine standards management plan**

## **13 Document control and accessibility requirements**

- (1) The operator of a wine standards management plan must ensure that every document or part of a document that makes up the plan is—
  - (a) legible and accurate; and
  - (b) dated or marked to identify its version; and
  - (c) retained for at least 7 years after the date on which it is created; and
  - (d) accessible to any person with responsibilities under the plan.
- (2) The operator of a wine standards management plan must provide the records and documents on request by—

- (a) the verifier or verifying agency; or
  - (b) a wine officer; or
  - (c) the Director-General; or
  - (d) a person authorised by the Director-General.
- (3) The operator must provide the records and documents—
- (a) as soon as practicable, but within 2 working days after the request; or
  - (b) within the period that applies under regulation 80, if the information requested is traceability information.

#### **14 Operator reporting requirements**

- (1) The operator of a wine standards management plan must notify the Director-General and the verifier or verifying agency in writing no later than 30 days after—
- (a) the operator considers that the plan is no longer effective; or
  - (b) there is a change to the person responsible for the day-to-day management of the plan.
- (2) The operator of a wine standards management plan must notify the Director-General in writing no later than 30 days after there is a change to the verifier or verifying agency responsible for verification of the plan.
- (3) The operator of a wine standards management plan must notify the Director-General and verifier or verifying agency in writing within 24 hours after the operator becomes aware of any breach of a regulatory requirement that results in a critical non-compliance.

#### **15 Operator must provide evaluation report to verifier**

The operator of a wine standards management plan must provide a copy of their evaluation report to the verifier or verifying agency responsible for verification of the operator's wine standards management plan.

#### **16 Operator of wine standards management plan must report certain information to Director-General**

The operator of a wine standards management plan must report to the Director-General or the operator's verifier or verifying agency if the operator has reasonable grounds to believe that information provided by a supplier about wine is materially false or misleading.

### Subpart 3—Specific exemptions from requirement to have wine standards management plan

#### **17 Exemption for wine labelling businesses from requirement to have wine standards management plan**

A wine business is exempt from the requirement to operate under a registered wine standards management plan if the wine business is solely engaged in labelling wine that has already been bottled or packed for final sale.

#### **18 Exemption for wine storage businesses from requirement to have wine standards management plan**

A wine business is exempt from the requirement to operate under a registered wine standards management plan if the wine business is solely engaged in storing wine during a period that—

- (a) starts after the wine has been bottled; and
- (b) ends before the wine undergoes any further winemaking process.

#### **19 Exemption for very small winemakers from requirement to have wine standards management plan**

A wine business is exempt, for a period of 2 years, from operating under a registered wine standards management plan for the winemaker's winemaking operations if—

- (a) the winemaker proposes, during the 2-year period,—
  - (i) to produce no more than 20,000 litres of wine; and
  - (ii) not to sell the wine for export from New Zealand; and
- (b) the winemaker notifies the Director-General, in writing, of—
  - (i) the dates on which the 2-year period is to begin and end; and
  - (ii) the matters specified in paragraph (a); and
- (c) during the 2-year period, the winemaker—
  - (i) produces no more than 20,000 litres of wine; and
  - (ii) does not sell the wine for export from New Zealand.

## **Part 2**

### **Safety standards for wine and commodities**

#### **20 Wine must be free from hazards**

- (1) The operator of a wine business that makes wine must ensure that it is free from hazards.

- (2) Supplementary notices may, for the purposes of subclause (1), specify detailed requirements in relation to acceptable or unacceptable levels of substances, objects, or materials in relation to any wine or class of wine.

## **21 Commodities must be free from hazards**

- (1) A supplier of commodities must—
- (a) ensure that those commodities are—
    - (i) free from hazards; and
    - (ii) suitable for the making of wine; and
  - (b) comply with any detailed requirements relating to paragraph (a) that are specified in a supplementary notice.
- (2) The operator of a wine business receiving commodities must—
- (a) ensure that the commodities used to make wine are suitable for making wine; and
  - (b) comply with any detailed requirements relating to paragraph (a) that are specified in a supplementary notice.

## **22 Information requirements about commodities**

- (1) A supplier of commodities must keep information relating to the status of the commodities, including—
- (a) the source of the commodities; and
  - (b) their description; and
  - (c) their risk factors (if any); and
  - (d) any matters set out in a supplementary notice.
- (2) The supplier of commodities must provide the information set out in subclause (1) to the operator of the wine business when the commodities are presented to the wine business for making into wine.
- (3) The supplier of commodities must ensure that the records under subclause (1) are—
- (a) legible and accurate; and
  - (b) retained for at least 7 years after the date on which the records are created.
- (4) The supplier of commodities must provide the records on request by—
- (a) a wine officer; or
  - (b) the Director-General; or
  - (c) a person authorised by the Director-General.
- (5) The supplier of commodities must ensure that the records are provided as soon as practicable, but within 2 working days after the request or any longer period specified by the person making the request.

- (6) The operator of a wine business receiving a commodity must obtain and keep records of the information set out in subclause (1) for at least 7 years after the date on which the record is created.

**23 Transporter must keep wine and commodities free from hazards**

A transporter of wine or commodities must transport the wine or commodities in a manner that—

- (a) ensures that they remain free from hazards; and  
(b) complies with any detailed requirements relating to paragraph (a) that are specified in a supplementary notice.

**Part 3**

**Good operating practices for wine processing**

**24 Application of this Part**

This Part applies to all operators of a wine business that makes wine.

**25 Operators' procedures for good operating practices**

- (1) An operator must establish and implement procedures that are appropriate and effective to address the good operating practices required under this Part.  
(2) An operator must ensure that the procedures required under subclause (1) are sufficient to ensure that all wine produced will be fit for its intended purpose.

**26 Places, equipment, and essential services**

- (1) An operator must ensure that its premises or place, equipment, or essential services do not introduce hazards to wine.  
(2) An operator must ensure that the premises or place, equipment, and essential services used for the making or storage of wine are operated in a manner that minimises the introduction of hazards to the wine.

**27 Water**

- (1) An operator must ensure that all water that comes into contact with the operator's wine or any surfaces at its premises or place (including surfaces of equipment or packages)—  
(a) is supplied by a drinking-water supplier or temporary drinking-water supplier (as those terms are defined in section 69G of the Health Act 1956); or  
(b) in any other case, does not introduce hazards to the wine.  
(2) Supplementary notices may specify detailed requirements for the purposes of subclause (1)(b).

**28 Repairs and maintenance**

- (1) An operator must ensure that its premises, place, equipment, and essential services are maintained to ensure that wine is fit for its intended purpose.
- (2) An operator must ensure that any maintenance compounds used for repairs and maintenance of its premises or place, equipment, or essential services do not introduce hazards to wine.
- (3) An operator must ensure that all alterations and maintenance work on its premises or place, equipment, and essential services are conducted in a manner that minimises the introduction of hazards to wine.

**29 Cleaning and sanitising**

- (1) An operator must ensure that winemaking equipment is adequately cleaned and, where necessary, sanitised.
- (2) An operator must ensure that cleaning and sanitising activities do not introduce hazards to wine.

**30 Maintenance compounds**

- (1) An operator must ensure that maintenance compounds are stored, handled, and used in a manner that minimises the introduction of hazards to wine.
- (2) An operator must ensure that maintenance compounds held or used within the winemaking premises or place are clearly identified.

**31 Waste management**

An operator must collect, manage, and dispose of waste in a manner that minimises the introduction of hazards to wine.

**32 Control of pests**

An operator must minimise the presence of pests that could be a source of hazards in and around its premises or place and equipment used for the making and storage of wine.

**33 Protection against contamination, etc, by people**

- (1) An operator must ensure that staff members and visitors (including contractors) at the wine business—
  - (a) follow a routine of personal hygiene that is appropriate to minimise the introduction of hazards to wine; and
  - (b) behave in a way that does not compromise the fitness for intended purpose of wine.
- (2) The operator must ensure that any staff member or visitor (including a contractor) at the winemaking premises or place who is known to be, or suspected of being, sick does not contaminate or introduce hazards to wine.
- (3) For the purposes of subclause (2), **sick** means—

- (a) being infected with, or a carrier of, an infectious disease in a communicable form, as described in Section A, Part 1, of Schedule 1 of the Health Act 1956 and that is likely to be transmitted through wine; or
- (b) suffering from acute respiratory infection; or
- (c) suffering from boils, sores, infected wounds, or any other condition that is not, or cannot be, adequately prevented from becoming a source of contamination to wine.

#### **34 Control of commodities and winemaking inputs**

- (1) An operator must ensure that commodities and winemaking inputs used to make wine are stored and handled during the winemaking process in a manner that minimises the introduction of hazards to the wine.
- (2) An operator must ensure that all—
  - (a) commodities and winemaking inputs are clearly identified; and
  - (b) winemaking inputs are suitable for use.

#### **35 Processes and practices**

An operator must ensure that the processes and practices used during the winemaking process—

- (a) produce wine that is fit for its intended purpose; and
- (b) are sufficient to prevent hazards from being introduced to the wine.

#### **36 Storage as part of winemaking process**

An operator must ensure that wine is made and stored in a manner that does not introduce hazards to the wine.

#### **37 Packaging requirements**

An operator must ensure that any packaging that comes into contact with wine or commodities used to make the wine—

- (a) is designed, made, stored, and used in a manner that ensures the wine's fitness for its intended purpose; and
- (b) does not introduce hazards to the wine; and
- (c) complies with any detailed requirements specified in a supplementary notice for the purpose of paragraph (a) or (b).

#### **38 Suitably skilled staff**

An operator must ensure that any person carrying out a task that could introduce hazards to wine is suitably skilled for the task.

**39 Corrective action**

If there is a loss of control, an operator must take corrective action that is appropriate, having regard to the nature and effect of the loss of control.

**40 Record-keeping by operators**

- (1) An operator must keep records to demonstrate compliance with all applicable regulatory requirements.
- (2) The operator must ensure that the records are—
  - (a) legible and accurate; and
  - (b) retained for at least 7 years after the date on which the records are created.
- (3) The operator must provide the records on request by—
  - (a) a wine officer; or
  - (b) the Director-General; or
  - (c) a person authorised by the Director-General.
- (4) The operator must ensure that the records are provided—
  - (a) as soon as practicable, but within 2 working days after the request or any longer period specified by the person making the request; or
  - (b) within the period that applies under regulation 80, if the information requested is traceability information.

**Part 4****Grape wine labelling requirements****41 Grape wine must not be associated with false or misleading labelling**

- (1) The operator of a wine business that makes grape wine must ensure that the wine is not associated with false or misleading labelling of any kind concerning—
  - (a) its grape variety; or
  - (b) its vintage; or
  - (c) the area of origin.
- (2) The operator of a wine business that makes grape wine must keep records for wine to enable the truthfulness and accuracy of any label statements regarding wine vintage, variety, area of origin, or country of origin to be determined.

**42 Country of origin labelling and identification requirements**

- (1) The operator of a wine business that makes grape wine must ensure that it is labelled in a manner that clearly indicates the country of origin of the wine.

- (2) If any of the grape juice, concentrated grape juice, potable spirit, or wine spirit used in any grape wine originates in a country other than the country of origin of the wine, the operator must ensure that the country is named on the label as a source of winemaking inputs.

#### **43 Requirements for New Zealand grape wine label statements**

- (1) The operator of a wine business that makes New Zealand grape wine must ensure that, when it is labelled and in its final package ready for consumption, its labelling complies with the requirements—
- (a) set out in subclauses (2) to (6); and
  - (b) specified in any supplementary notice referred to in subclause (9).
- (2) If a grape wine label includes a statement regarding a single grape variety, vintage, or area of origin, at least 85% of the wine to which the statement refers must be from the stated variety, vintage, or area of origin.
- (3) If a grape wine label includes a statement regarding a blend of grape varieties, vintages, or areas of origin, at least 85% of the wine to which the statement refers must be from the stated varieties, vintages, or areas of origin.
- (4) If a grape wine label includes a statement regarding a combination of grape varieties, vintages, or areas of origin, the combination referred to must be at least 85% of that wine.
- (5) If a grape wine label includes a statement regarding a blend of grape varieties, vintages, or areas of origin, the varieties, vintages, or areas of origin must be presented on the label in descending order from the greatest to the least proportion in the blend.
- (6) A grape wine's label must not include a statement regarding grape variety, vintage, or area of origin if the wine contains a greater percentage of wine from another grape variety, vintage, or area of origin that the label does not refer to.
- (7) The label statement of a grape wine made for export need not comply with this regulation if—
- (a) the wine is not sold in New Zealand; and
  - (b) access requirements for overseas markets notified under section 41 of the Act specify label requirements in relation to the grape wine variety, vintage, or area of origin, and the wine complies with those access requirements.
- (8) The following may be excluded from the calculations required for subclauses (2), (3), and (4):
- (a) brandy or other spirit that is used for the fortification of grape wine;
  - (b) a culture of microorganisms used in the making of grape wine, up to a maximum of 50 ml per litre.

- (9) Supplementary notices may specify detailed requirements in relation to the labelling of grape variety, vintage, or area of origin.

#### **44 Labelling of grape ice wine for export**

A wine business must not export grape wine that is labelled as Icewine, ice wine, ice-wine, or a similar variation of those terms unless the grape wine is made exclusively from grapes naturally frozen on the vine.

#### **45 Application of labelling requirements**

- (1) Regulations 41 and 42 do not apply to the 2006 vintage or any earlier vintage, except as provided in this regulation.
- (2) For the purposes of subclause (1), a wine that is a blend of both the 2006 vintage (or any earlier vintage) and a later vintage is to be treated as if it were the later vintage only, except as provided in subclause (3).
- (3) Regulations 41 and 42 do not apply to a blended wine if the wine—
- (a) contains more than 50% of the 2006 vintage or an earlier vintage; and
  - (b) is blended before 1 July 2008.
- (4) To avoid doubt, regulation 155 of the Food Regulations 2015 continues to apply to wine to which regulations 41 and 42 do not apply.

## **Part 5 Evaluation**

### Subpart 1—Provisions that apply generally to evaluators and evaluations

#### **46 Application of this subpart**

This subpart applies to evaluators and evaluations generally.

#### **47 Who may carry out evaluations**

An evaluation of a wine standards management plan or a significant amendment to a wine standards management plan may only be carried out by an evaluator.

#### **48 Evaluator restrictions and requirements**

- (1) An evaluator who was involved in the design or development of a wine standards management plan or a significant amendment to that plan must not evaluate the plan for a period of 2 years after the date on which the plan or amendment is registered, unless the Director-General agrees otherwise in writing.
- (2) An evaluator must not use a technical expert for the purposes of regulation 51(3) or 55(3) if the technical expert was also involved in the design or development of that plan or the amendment being evaluated, for a period of 2 years

after the date on which the plan or amendment is registered, unless the Director-General agrees otherwise in writing.

#### **49 Independent evaluation report**

- (1) An evaluator must, after carrying out the evaluation of a wine standards management plan or a significant amendment to the plan, provide the operator of the wine business with a report of the evaluation.
- (2) The report must—
  - (a) state whether the evaluator has determined that the plan is valid in terms of sections 8 and 14 of the Act; and
  - (b) specify any conditions that the evaluator recommends should be imposed on, amended, or removed from the registration of the plan or any significant amendment; and
  - (c) contain any information specified by supplementary notice.

### Subpart 2—Evaluation of wine standards management plan for initial registration

#### **50 Application of this subpart**

This subpart applies to the evaluation of a wine standards management plan for the purposes of registration under section 18 of the Act.

#### **51 Evaluation for registration of wine standards management plan**

- (1) An evaluator must assess a wine standards management plan to determine whether the plan is valid in terms of sections 8 and 14 of the Act.
- (2) The evaluator may request that the operator provide any information about the wine business that the evaluator reasonably requires to carry out the evaluation.
- (3) An evaluator must obtain supporting reports and assistance from a technical expert or other evaluator for any aspect of the wine standards management plan evaluation that is outside their area of expertise.

#### **52 On-site assessment**

- (1) When carrying out an on-site assessment, the evaluator must assess the appropriateness and accuracy of the wine standards management plan against—
  - (a) the physical boundaries of the premises or place to which the plan applies; and
  - (b) the design and construction of the premises or place, facilities, and equipment; and
  - (c) the operations described in the plan; and
  - (d) any other matters that a supplementary notice requires to be assessed against a wine standards management plan.

- (2) The evaluator must carry out an on-site assessment of each premises or place covered by the wine standards management plan.

### **53 Exemption from requirement for on-site assessment**

- (1) The Director-General may grant an exemption from the requirement to carry out an on-site assessment of particular premises or places as part of the evaluation of a proposed wine standards management plan, if satisfied that—
- (a) the risk of hazards being introduced to wine is such that an on-site visit is unnecessary; or
  - (b) an on-site visit would not contribute to the assessment of the validity of the wine standards management plan.
- (2) The Director-General must provide the exemption in writing and may include conditions.
- (3) The evaluator must attach a copy of the exemption to the evaluation report.
- (4) An exemption granted under this regulation is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless the exemption applies only to 1 or more named persons.

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#### **Legislation Act 2019 requirements for secondary legislation made under this regulation**

<b>Publication</b>	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the secondary legislation.*

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## **Subpart 3—Evaluation of significant amendment to wine standards management plan**

### **54 Application of this subpart**

This subpart applies to the evaluation of a significant amendment to a wine standards management plan for the purposes of its registration under section 22 of the Act.

### **55 Evaluation of significant amendment to wine standards management plan**

- (1) An evaluator must assess the significant amendment to the wine standards management plan to determine whether it is valid in terms of sections 8 and 14 of the Act.
- (2) The evaluator may request that the operator provide any information about the wine business that the evaluator reasonably requires to carry out the evaluation.
- (3) The evaluator must obtain supporting reports and assistance from a technical expert or other evaluator for any aspect of the wine standards management plan evaluation that is outside their area of expertise.

- (4) Supplementary notices may, for the purposes of this regulation, specify details of how an evaluation must be carried out for a significant amendment to a wine standards management plan.

## **Part 6**

### **Verification**

#### Subpart 1—Verification obligations

##### **56 Subject to verification**

A wine business operating under a wine standards management plan is subject to the verification requirements set out in this Part or specified in any relevant supplementary notices.

##### **57 Obligations if subject to verification**

The operator of a regulated wine business must ensure that the wine standards management plan and wine business are verified in accordance with the initial verification and verification frequencies set out in this Part.

##### **58 Verification must be done by verifier or verifying agency**

Verification under this Part must be carried out by a verifier or verifying agency.

##### **59 Restriction on verification by previous evaluator**

A verifier must not verify a wine standards management plan that they previously evaluated, or for which they evaluated a significant amendment, for a period of 2 years after the date of the evaluation, unless the Director-General agrees otherwise in writing.

#### Subpart 2—Timing and frequency of verification

##### *Timing of verifications for wine businesses*

##### **60 Timing of initial verification**

- (1) A wine business subject to verification under this Part that makes New Zealand grape wine for export under its wine standards management plan must ensure that an initial verification of its wine standards management plan is carried out before the earlier of—
- (a) the date of its first export of wine after the plan's registration; and
  - (b) the date that is 6 months after the plan's registration.
- (2) Any other wine business subject to verification under this Part must ensure that an initial verification of its wine standards management plan is carried out no later than 6 months after its wine standards management plan is registered.

## 61 Timing of beginning of verification subsequent to initial verification for wine business

The timing for the beginning of any verification subsequent to the initial verification of the wine business is calculated from the date on which the initial verification begins.

## 62 Verification frequency and steps

- (1) The frequency steps for the verification of a wine business that is subject to this Part are as follows:

Steps	Frequency of verification
1	6 months
2	12 months
3	24 months
4	36 months

- (2) The starting verification frequency that the verifier or verifying agency must apply if the result of initial verification of the wine standards management plan and wine business is an acceptable outcome is the frequency referred to in step 2 of the table in subclause (1).
- (3) Further reductions of verification frequency must be applied by the verifier or verifying agency, unless the wine standards management plan operator requests that the verifications be carried out annually, if subsequent verifications (including any unscheduled verification) result in acceptable outcomes, as follows:
- (a) if the frequency of verification is at step 2, step 3 is applied after 2 consecutive acceptable outcomes;
  - (b) if the frequency of verification is at step 3, step 4 is applied after a further 2 consecutive acceptable outcomes.
- (4) Despite subclauses (2) and (3), a verifier or verifying agency must carry out annual verification of a wine business and its wine standards management plan if the wine business makes wine for export under that wine standards management plan.
- (5) If the result of the initial verification or any subsequent verification (including any unscheduled verification) is an unacceptable outcome, the verifier or verifying agency may increase the frequency of verification to a level set out in steps 3 to 1 of the table, after taking into account—
- (a) the nature of any corrective action required under regulation 71; and
  - (b) the competence of the operator in managing the activities of the wine business; and
  - (c) the activities and conduct of the operator; and
  - (d) the history of the operator's compliance with any applicable regulatory requirements; and

- (e) the effectiveness of process controls to identify, control, manage, and eliminate or minimise hazards and other risk factors established for the wine business; and
- (f) the effectiveness of good operating procedures established for the wine business.

### **63 Varying verification dates**

The Director-General may, in respect of a particular wine business that is subject to verification, vary the time frame for verification calculated by reference to regulation 62 if matters outside the wine business's control mean that the verifier or verifying agency has not been able to carry out verification within the calculated time frame.

#### *Unscheduled verification*

### **64 Unscheduled verification**

- (1) The Director-General may require a verifier or verifying agency to carry out an unscheduled verification of a wine business subject to verification if the Director-General considers there are issues with the fitness for intended purpose of the wine.
- (2) The Director-General may require an unscheduled verification referred to in subclause (1) because of 1 or more of the following:
  - (a) any recalls of wine carried out by the wine business;
  - (b) any contamination, or suspected contamination, of the wine by any hazard;
  - (c) any information that the Director-General considers is reasonable grounds for suspecting that the wine is no longer fit for its intended purpose or otherwise does not comply with any applicable regulatory requirements;
  - (d) any information that the Director-General considers is reasonable grounds for suspecting that the wine business is not complying with any applicable regulatory requirements;
  - (e) it is necessary to meet any particular access requirements for overseas markets notified under section 41 of the Act;
  - (f) any other factors the Director-General considers relevant.
- (3) The Director-General—
  - (a) must, in writing, advise the verifier or verifying agency responsible for verifying the wine business of the matters referred to in subclause (2); and
  - (b) may set the time frame for carrying out the verification; and

- (c) must set the minimum notice, not less than 24 hours, that the verifier or verifying agency must give to the wine business of the unscheduled verification.
- (4) The verifier or verifying agency must—
  - (a) give notice to the wine business as specified in subclause (3)(c); and
  - (b) carry out a verification of the business—
    - (i) as soon as practicable after receiving the Director-General's advice; or
    - (ii) within the time frame (if any) specified by the Director-General.
  - (c) comply with any detailed requirements specified in the supplementary notice in relation to unscheduled verification.

*Multi-business and multi-site wine business verification*

**65 Verification of multi-business wine standards management plan**

- (1) Verification of a multi-business wine standards management plan must be carried out in relation to the proportion of businesses subject to the plan that are required to be verified and in accordance with any other matters specified in a supplementary notice.
- (2) For the purposes of any subsequent verification of a multi-business wine standards management plan,—
  - (a) the verifier or verifying agency may treat the verification outcome of 1 or more businesses that are subject to the plan as applying to all businesses that are subject to the plan; and
  - (b) the verifier or verifying agency may have a different verification scope for each business.
- (3) The Director-General may, in respect of a particular multi-business wine standards management plan,—
  - (a) decide which businesses must be verified generally or on any particular occasion; and
  - (b) vary the proportion of businesses that must be verified generally or on any particular occasion from that specified in the supplementary notice.

**66 Verification of multi-site wine standards management plan**

- (1) Verification of a multi-site wine standards management plan must be carried out in relation to the proportion of sites required to be verified and in accordance with any other matters specified in a supplementary notice.
- (2) For the purposes of any subsequent verification of a multi-site wine standards management plan,—
  - (a) the verifier or verifying agency may treat the verification outcome of 1 or more sites as applying to all sites that are subject to the plan; and

- (b) the verifier or verifying agency may have a different verification scope for each site.
- (3) The Director-General may, in respect of a particular multi-site wine standards management plan,—
  - (a) decide which sites must be verified generally or on any particular occasion; and
  - (b) vary the proportion of sites that must be verified generally or on any particular occasion from that specified in the supplementary notice.

### Subpart 3—Verification for wine businesses

#### **67 Verifier must advise operator of scope of verification**

- (1) A verifier or verifying agency that is verifying a wine standards management plan under this Part must advise the operator of the plan of the scope of the verification at the beginning of each verification.
- (2) Despite subclause (1), the verifier is not restricted to the planned scope during a verification if the verifier considers during the verification that the scope should be expanded.
- (3) Supplementary notices may, for the purposes of this regulation, specify matters in relation to the scope of verification to be performed.

#### **68 Verification outcome**

Within 5 working days after carrying out a verification, a verifier or verifying agency must assign an outcome and provide a written report to the operator of the wine standards management plan.

#### **69 Verification decision**

- (1) The verifier or verifying agency must assign an **acceptable outcome** if satisfied—
  - (a) of the wine business's compliance with the applicable regulatory requirements; and
  - (b) in the case of a wine standards management plan,—
    - (i) of the applicability of the plan to the operations of the wine business; and
    - (ii) of the effectiveness of the plan; and
  - (c) that subclause (2) does not otherwise apply.
- (2) The verifier or verifying agency must assign an **unacceptable outcome** if satisfied that—
  - (a) there is critical non-compliance by the wine business; or
  - (b) in the case of a wine standards management plan,—

- (i) the plan is not applicable to the operations of the wine business;
  - (ii) the plan is not effective; or
- (c) 1 or more of the following apply:
  - (i) the operator has failed to identify or effectively address a problem or deficiency that has the potential to cause a critical non-compliance:
  - (ii) the verifier or verifying agency has no confidence in the operations of the wine business because of the combined effect of several instances of non-compliance:
  - (iii) the verifier or verifying agency has no confidence in the operations of the wine business because of the extent to which records required under the applicable requirements of the Act are absent, incomplete, or altered.
- (3) For the purposes of subclause (2)(a), if there has been any non-compliance with any applicable regulatory requirements, the verifier or verifying agency must consider whether any corrective action has been, or is being, carried out appropriately.

## **70 Verification report**

The verification report must include all of the following:

- (a) the type of verification, including whether it was scheduled or unscheduled:
- (b) the date of the verification and the date on which the report is issued:
- (c) sufficient information to enable the reader to clearly understand the commentary and findings:
- (d) the verification scope, along with details of the wine standards management plan components or elements covered:
- (e) the time frame for any corrective actions to be carried out:
- (f) the verification outcome and any change to the verification frequency:
- (g) any recommendations concerning corrective actions (*see* regulations 71 and 72):
- (h) when the next verification is due:
- (i) details of any failure of the operator to comply with their duties under section 13 of the Act:
- (j) any other information required by a supplementary notice.

## Subpart 4—Verification consequences

### **71 Verifier or verifying agency must require corrective action**

- (1) A verifier or verifying agency that reasonably considers that an applicable regulatory requirement of the Act is not being complied with by a wine business or person subject to verification under this Part must require that the wine business or person—
  - (a) determine the appropriate corrective action; and
  - (b) carry out the corrective action within a specified time.
- (2) The wine business must carry out the corrective action to the satisfaction of the verifier or verifying agency within the time frame specified under subclause (1)(b).

### **72 Corrective action plan for unacceptable outcome**

- (1) After carrying out a verification, if a verifier or verifying agency assigns an unacceptable outcome to a wine business or an operator of a wine standards management plan, the operator and the verifier or verifying agency must—
  - (a) agree to a period of time within which the wine business or operator must prepare a corrective action plan for the consideration of the verifier or verifying agency; and
  - (b) agree to a corrective action plan, which must state the corrective actions to be carried out and the time frame within which each action must be carried out.
- (2) The wine business must comply with the corrective action plan to the satisfaction of the verifier or verifying agency within the time frame specified under subclause (1)(b).

#### *Notices: requirements for conducting verification*

### **73 Notices about requirements for conducting verification**

The verifier or verifying agency must meet the detailed requirements for conducting a verification that are specified in a supplementary notice.

#### *Reconsideration*

### **74 Reconsideration**

- (1) A wine business or person that this Part applies to may seek a reconsideration of a verification decision to assign an unacceptable outcome by applying to the Director-General—
  - (a) within 15 working days after receiving their verification outcome under regulation 68; and
  - (b) in writing, using a form provided by the Director-General.

- (2) If the verification report specifies a change to the wine business's verification frequency, the frequency specified in the report continues to apply until the wine business or person is notified of the reconsideration decision.
- (3) The person or body responsible for reconsidering the verification decision must—
  - (a) reconsider the decision within 20 working days after receipt of the application for reconsideration, or a later date if the applicant agrees; and
  - (b) give written notice of their decision to the applicant and the verifier or verifying agency.
- (4) Regulations 68 to 70 apply, with any necessary modifications, to the reconsideration of a verification decision.

### Subpart 5—General verification matters

#### *Subject of verification to pay costs*

#### **75 Wine business must pay verification costs**

A wine business, the operations of which are required to be verified under these regulations or by the Director-General, must pay the costs of the verification.

#### *Notifying and reporting*

#### **76 Reporting**

- (1) A verifier or verifying agency must report to the Director-General,—
  - (a) when verification (including any follow-up activity) is completed,—
    - (i) the outcome assigned to the verification visit; and
    - (ii) any changes to the verification frequency; or
  - (b) if the operator fails to carry out a corrective action within the agreed period of time.
- (2) A verifier or verifying agency must report to the Director-General as soon as practicable any critical non-compliance identified by the verifier or verifying agency.
- (3) The report must include any actions that the verifier or verifying agency recommends that the Director-General should take.
- (4) A verifier or verifying agency must provide a report required by this regulation in accordance with any supplementary notice.

## **Part 7**

### **Traceability and recall**

#### Subpart 1—Traceability

##### *Traceability procedure*

#### **77 Traceability procedures for wine businesses that make wine**

- (1) This regulation applies to the operator of a wine business that makes wine.
- (2) The operator must have in place and implement traceability procedures that enable the operator—
  - (a) to identify and locate individual wines; and
  - (b) to trace all winemaking inputs and commodities used to make wine—
    - (i) from the supplier to the wine business; and
    - (ii) that are used in the production of each wine; and
  - (c) to trace all wine from the wine business to the next recipient in the supply chain (other than the final consumer).
- (3) The operator must ensure that the information required under subclause (2) or by a supplementary notice referred to in subclause (5) is accurate.
- (4) The operator must ensure that the information required under subclause (2) is also sufficient to allow an effective recall to be carried out.
- (5) Supplementary notices may specify details of further matters required in traceability procedures.

#### **78 Traceability procedures for wine businesses that export wine**

- (1) This regulation applies to the operator of a wine business that exports wine.
- (2) The operator must have in place and implement traceability procedures that enable the operator—
  - (a) to identify and locate individual wines; and
  - (b) to trace all wine from the wine business to the next recipient in the supply chain (other than the final consumer).
- (3) The operator must ensure that the information required under subclause (2) or by a supplementary notice referred to in subclause (5) is accurate.
- (4) The operator must ensure that the information required under subclause (2) is also sufficient to allow an effective recall of wine to be carried out.
- (5) Supplementary notices may specify details of further matters required in traceability procedures.

**79 Additional traceability requirements for New Zealand grape wine**

- (1) This regulation applies to the operator of a wine business that makes or exports New Zealand grape wine.
- (2) The operator must have in place and implement traceability procedures that enable the operator to trace—
  - (a) grapes from the source vineyard through to the next recipient in the supply chain (other than the final consumer) of the wine made from those grapes; and
  - (b) wine that has been packaged back to the source vineyards of the grapes from which that wine was made.
- (3) The operator must ensure that the information required under subclause (2) is accurate.
- (4) This regulation applies in addition to regulations 77 and 78.

*Providing traceability information***80 Providing traceability information on request**

- (1) This regulation applies to the information kept by an operator as part of the traceability procedures referred to in any of regulations 77 to 79.
- (2) The operator must provide the information to the Director-General or a wine officer who requests it—
  - (a) within 24 hours after the request; or
  - (b) within any reasonable shorter period specified by the Director-General or wine officer.
- (3) The operator must provide the information in a readily accessible format.

**Subpart 2—Recalls****81 Application of this subpart**

This subpart applies to an operator of a wine business that makes or exports wine.

*Recall procedures***82 Recall procedures**

- (1) An operator to whom this subpart applies must—
  - (a) have in place recall procedures for wine that—
    - (i) include criteria for deciding when a recall will be made; and
    - (ii) set out how retrieval and reprocessing or disposal of the wine will be managed; and
  - (b) recall wine in accordance with those procedures.

- (2) Supplementary notices may specify details of further matters required in recall procedures.

*Details of recall to be provided to Director-General*

**83 Providing details of recall**

- (1) If an operator to whom this subpart applies decides to recall wine, the operator must notify the Director-General or a wine officer as soon as practicable, but no later than 24 hours after making the decision.
- (2) The operator must also provide the Director-General or wine officer with the following details within 24 hours after making the decision to recall the wine:
- (a) the wine affected by the recall:
  - (b) the reason for the recall:
  - (c) any information required by a supplementary notice.
- (3) The operator must provide the information required under subclause (2) in a readily accessible format.

*Simulated recall*

**84 Simulated recall to demonstrate procedures effective**

- (1) This regulation applies to any—
- (a) operator of a wine standards management plan; and
  - (b) operator of a wine business that exports wine.
- (2) An operator to whom this regulation applies must conduct a simulated recall of wine using their traceability and recall procedures.
- (3) The simulation must demonstrate the effectiveness of the operator's traceability and recall procedures.
- (4) In this Part, **effectiveness** is measured by—
- (a) the proportion of wine that would have been or was successfully traced and returned; and
  - (b) the time taken to trace and recall affected wine; and
  - (c) any matters specified in a supplementary notice.
- (5) Supplementary notices may specify matters that must be tested by a simulated recall and matters relating to the measurement of the effectiveness of traceability and recall procedures.

**85 Frequency of simulated recall**

- (1) This regulation applies to any—
- (a) operator of a wine standards management plan; and
  - (b) operator of a wine business that exports wine.

- (2) An operator to whom this regulation applies must conduct a simulated recall referred to in regulation 84 at least every 12 months—
  - (a) after the date of a simulated recall; or
  - (b) after the date of a genuine recall, if the recall demonstrated the traceability and recall procedures to be effective.

## **Part 8**

### **Export of New Zealand grape wine**

#### **86 Application of this Part**

This Part applies to New Zealand grape wine that is made to be, or is, exported from New Zealand for reward or for purposes of trade.

#### *Export eligibility*

#### **87 Export eligibility requirements**

- (1) To be eligible for export, wine to which this Part applies must be—
  - (a) free from obvious fault; and
  - (b) made under a wine standards management plan verified in accordance with Part 6.
- (2) A wine business that makes wine to which this Part applies must—
  - (a) comply with any requirements specified in a supplementary notice about how wine is determined to be free from obvious fault; and
  - (b) confirm to the Director-General that the wine complies with subclause (1); and
  - (c) give that confirmation in the manner and form specified in the supplementary notice.
- (3) A confirmation referred to in subclause (2) is valid for the period specified in the supplementary notice.

#### **88 Application for export eligibility certificate**

- (1) Before exporting wine to which this Part applies, a wine business must apply to the Director-General for, and be issued with, an export eligibility certificate (*see* section 38(6) of the Act).
- (2) The wine business must apply in the manner and form specified in a supplementary notice.

### *Record-keeping*

#### **89 Record-keeping requirements**

- (1) A wine business that exports wine to which this Part applies must document and maintain records for the wine that enable the following to be determined:
  - (a) the truthfulness and accuracy of any label statements regarding the wine's vintage, variety, area of origin, and country of origin; and
  - (b) compliance with applicable regulatory requirements.
- (2) A wine business that makes New Zealand grape wine or exports New Zealand grape wine for the purpose of reward or trade must keep—
  - (a) records that enable separate and clear identification of individual wines as confirmed to the Director-General under regulation 87(2)(b) as meeting export eligibility requirements; and
  - (b) copies of documents relating to the confirmation referred to in regulation 87(2)(b).

#### **90 Accessibility of records**

- (1) A wine business that holds records required by regulation 89 must ensure that the records are—
  - (a) legible and accurate; and
  - (b) retained for at least 7 years after the date on which the records are created.
- (2) The wine business must make the records available for inspection on request by—
  - (a) the verifier or verifying agency; or
  - (b) a wine officer; or
  - (c) the Director-General; or
  - (d) a person authorised by the Director-General.
- (3) The wine business must make the records available—
  - (a) as soon as practicable, but within 2 working days after the request; or
  - (b) within the period that applies under regulation 80(2), if the information requested is traceability information.

### *Exemptions*

#### **91 Exemption of certain wine consignments from export requirements**

Wine that is to be exported for reward or for purposes of trade and that does not exceed 27 litres per consignment may be exempted under section 39(1)(e) of the Act.

## **Part 9**

### **Recognised agencies and persons**

#### *Application of Part*

#### **92 Application of this Part**

- (1) This Part applies to—
  - (a) the recognition of agencies under section 71 of the Act; and
  - (b) the recognition of natural persons under section 73 of the Act.
- (2) This Part does not apply to—
  - (a) the recognition of agencies under section 72 of the Act; or
  - (b) the recognition of natural persons under section 74 of the Act; or
  - (c) the recognition of classes of persons under section 75 of the Act.

#### **Subpart 1—Recognised agencies**

#### **93 Scope of this subpart**

This subpart sets out requirements for the recognition, and the maintenance of recognition, of agencies under section 71 of the Act.

#### **94 Recognised agencies**

- (1) A person applying to be a recognised agency must demonstrate that the person—
  - (a) has in place a written quality management system that complies with regulation 124; and
  - (b) is able to comply with procedures set out in the quality management system; and
  - (c) if required by subclause (2), holds accreditation with an accreditation body, and to a particular standard, as specified in a supplementary notice, as relevant to the specified functions and activities in relation to which the person is seeking recognition.
- (2) A person must hold accreditation with an accreditation body, if—
  - (a) the person carries out specified functions and activities; and
  - (b) a supplementary notice requires accreditation with an accreditation body for carrying out those activities.
- (3) Supplementary notices may specify—
  - (a) the relevant standard for the purposes of subclause (1)(c); and
  - (b) the functions and activities for which a person must hold accreditation under subclause (2).

- (4) A person must undergo assessment of their ability to carry out the functions and activities for which recognition is sought, if a supplementary notice requires assessment for recognition in relation to those types of functions and activities.
- (5) The assessment must be carried out in relation to the following matters specified in a supplementary notice:
  - (a) the levels of assessment:
  - (b) the assessment processes:
  - (c) assessments for different circumstances and types of functions and activities:
  - (d) any other matters relating to the form and content of the assessment.

**95 Person in agency responsible for day-to-day management**

A recognised agency must—

- (a) appoint a person in the agency as a person responsible for its day-to-day management; and
- (b) provide the Director-General with the person's name; and
- (c) ensure that the person is able to demonstrate an understanding of the role of the recognised agency within the relevant regulatory requirements.

**96 Recognised agency applying for recognition of natural person**

- (1) This regulation applies to a recognised agency that is—
  - (a) required as a condition of its recognition to manage or supply recognised persons to carry out some or all of the permissible functions and activities for which it is recognised; or
  - (b) applying under the Act for a natural person employed in, or engaged or managed by, the agency to be a recognised person.
- (2) The agency must confirm to the Director-General that the natural person meets all the requirements relevant to their proposed functions and activities as a recognised person.
- (3) The agency must have in place procedures for—
  - (a) managing applications for recognising persons; and
  - (b) regularly reviewing the performance of recognised persons; and
  - (c) any other matter as specified in a supplementary notice that relates to applications under this regulation.
- (4) Supplementary notices may, for the purposes of this regulation, specify requirements that must be met by recognised agencies applying for recognition of natural persons.

**97 Performance standards**

- (1) A recognised agency must perform its role to a standard and in such a way that ensures that it is carrying out its specified functions and activities effectively.
- (2) Supplementary notices may specify or set performance standards for agencies that carry out specified functions and activities under the Act.

*Record-keeping by recognised agencies***98 Record-keeping by recognised agencies**

- (1) A recognised agency must keep the following for at least 7 years:
  - (a) records relating to the qualifications, training, work-related experience, and performance of any person it employs, engages, or manages:
  - (b) records in relation to the specified functions and activities, and any related activity, of the agency or any recognised person it employs, engages, or manages:
  - (c) records relating to each wine business for which the agency, recognised person, or person it employs, engages, or manages provides services, including any reports provided to the wine business:
  - (d) any other records required to be kept under any regulatory requirements.
- (2) The recognised agency must ensure that records and reports referred to in sub-clause (1)—
  - (a) are kept in a readily accessible format; and
  - (b) are provided on request by—
    - (i) a wine officer; or
    - (ii) the Director-General; or
    - (iii) a person authorised by the Director-General.
- (3) The recognised agency must provide the records as soon as practicable, but within 2 working days after the request.

*Notifying and reporting to Director-General***99 Recognised agency must notify Director-General**

- (1) A recognised agency must notify the Director-General as soon as practicable if the agency is, or recognised persons employed, engaged, or managed by the agency are, prevented by a wine business from carrying out their functions and activities.
- (2) A recognised agency must include in the notification any actions that the agency recommends that the Director-General should take.

### **100 Recognised agency must report certain matters to Director-General**

- (1) A recognised agency must report to the Director-General within the specified time frame on becoming aware of any of the following circumstances:
  - (a) if the agency holds accreditation, any matter or information that may affect its accreditation status (within 1 working day of becoming aware of the matter or information):
  - (b) that the agency is to cease to operate (as soon as reasonably practicable, but within 5 working days after ceasing to operate):
  - (c) any non-compliance in relation to the recognised agency's activities that has the potential to affect the integrity or effectiveness of the service provided (within 1 working day after becoming aware of the non-compliance):
  - (d) if the agency employs, engages, or manages recognised persons, that any recognised person under its management ceases to be employed, engaged, or managed by that agency (within 5 working days after the event):
  - (e) if the agency employs, engages, or manages recognised persons, any matter that brings into question the ability of a recognised person associated with the agency to continue to be considered a fit and proper person under section 73 of the Act or to be considered capable of carrying out their specific functions and activities (at the time when the agency has formed that view).
- (2) A recognised agency reporting to the Director-General in accordance with sub-clause (1)(a) or (c) must also notify the Director-General, within 5 working days after the original notice, of the corrective action the agency will take.
- (3) A recognised agency reporting to the Director-General under this regulation must, on the request of the Director-General and within the time frame specified in the request, provide additional information in relation to the performance of its functions and activities.
- (4) A recognised agency must report to the Director-General on any other matter that is specified in a supplementary notice for the purposes of this regulation.

#### *Maintaining recognition for recognised agencies*

### **101 Requirements for recognised agency to maintain recognition**

For the purpose of maintaining recognition, a recognised agency must—

- (a) continue to have in place the systems, processes, and procedures required for granting recognition; and
- (b) continue to comply with those systems, processes, and procedures; and
- (c) continue to meet regulatory requirements; and

- (d) continue to meet any assessment requirements relevant to its specified functions and activities; and
- (e) if the recognised agency holds accreditation, continue to hold accreditation to the required standard.

**102 Director-General may require agency or person to undergo assessment before and after granting recognition**

- (1) Before recognising a person as a recognised agency under the Act, the Director-General may require the person to undergo an assessment of—
  - (a) their procedures; or
  - (b) their ability to perform the functions and activities for which recognition is sought.
- (2) The Director-General may require a recognised agency to undergo assessment of—
  - (a) their procedures; or
  - (b) their performance of the specified functions and activities.
- (3) The Director-General may require an assessment under subclause (1) or (2) to be carried out by the Director-General or any other body or person as specified by the Director-General.
- (4) The Director-General may require an assessment under subclause (2) to be carried out by a date and with any frequency and in any manner specified by the Director-General.

**103 Assessment reports**

- (1) A recognised agency must provide assessment reports to the Director-General—
  - (a) when requested by the Director-General; or
  - (b) in accordance with, and with the frequency specified in, a supplementary notice.
- (2) Supplementary notices may, for the purposes of this regulation, specify—
  - (a) the types of reports to be provided; and
  - (b) the frequency of providing the reports; and
  - (c) the circumstances in which reports are required.

*Laboratories*

**104 Additional requirements for recognised laboratory**

- (1) In addition to meeting all other requirements for recognised agencies in this subpart, a recognised laboratory or a person applying for recognition as a recognised laboratory must—

- (a) ensure that all testing and other specified functions and activities are carried out properly and competently at all times—
    - (i) by having suitable facilities, equipment, procedures, materials; and
    - (ii) by employing, engaging, and managing suitable persons; and
  - (b) have a person in its laboratory who is responsible for each test within the scope of its recognition; and
  - (c) meet any technical requirements specified in a supplementary notice for the tests its laboratory performs as part of its specified functions and activities; and
  - (d) ensure that a change to any of the following is carried out in a manner that ensures that the integrity of its testing is maintained:
    - (i) the person responsible for its day-to-day management:
    - (ii) the person responsible for each test within its scope of recognition:
    - (iii) the premises:
    - (iv) the equipment:
    - (v) the facilities:
    - (vi) its disciplines; and
  - (e) meet detailed requirements for recognised laboratories, including any competencies specified in a supplementary notice for any person employed, engaged, or managed by the recognised laboratory.
- (2) If required by a supplementary notice, a recognised laboratory must participate in a proficiency programme that meets the requirements specified in the supplementary notice.

**105 Requirements for recognition as recognised laboratory in particular circumstances**

The Director-General may recognise a person as a recognised laboratory even if the person does not meet any or all of the requirements of these regulations if the Director-General—

- (a) is satisfied that the application for recognition relates to the function and activity of carrying out a specific test; and
- (b) has confidence in the integrity of the laboratory's processes; and
- (c) is satisfied that the laboratory can demonstrate the competence of its systems and staff, and the reliability of test results; and
- (d) is satisfied that no laboratory is recognised in relation to carrying out the test and at least 1 of the following circumstances exists:
  - (i) there is an urgent need for the particular test to be carried out:

- (ii) given the nature of the test, there is limited commercial value in providing the test:
- (iii) the laboratory holds accreditation with a scope that includes another test of a similar discipline to the discipline required for carrying out the test.

#### **106 Misleading statements**

A recognised laboratory must not make—

- (a) any misleading statement in relation to its recognition; or
- (b) any statement either directly or by implication that the laboratory's recognition is in itself an assurance in relation to wine.

#### **107 Samples and tests**

In carrying out tests within the scope of its recognition, a recognised laboratory must comply with any requirement specified in a supplementary notice, such as how and when—

- (a) to take samples; and
- (b) to perform tests; and
- (c) to authorise test results; and
- (d) to provide test results to an operator or the Director-General.

#### **108 Subcontracting tests**

A recognised laboratory may subcontract tests to another recognised laboratory.

#### **109 Tests carried out overseas**

The Director-General may approve a particular recognised laboratory to contract out a particular test within its scope of recognition to a specific laboratory overseas, if the Director-General is satisfied that the overseas laboratory is sufficiently qualified to carry out the test.

#### **110 Reporting by recognised laboratories**

- (1) A recognised laboratory must report to the Director-General as soon as is reasonably practicable if there is any significant change to any of the matters referred to in regulation 104(1)(d).
- (2) A recognised laboratory must report to the Director-General—
  - (a) at least 5 working days before the event,—
    - (i) any planned temporary closure; or
    - (ii) any change to its legal ownership; and
  - (b) within 30 days after a proposed change in its directorship, management, or control; and

- (c) within 1 working day, from the time non-compliance is identified,—
  - (i) any non-compliance by the recognised laboratory in relation to testing within its scope of recognition that affects or is likely to affect the integrity of test results; and
  - (ii) any information in relation to the non-compliance.
- (3) A recognised laboratory must notify the Director-General at least 6 months before it ceases managing the provision of all or any of its specified functions or activities.
- (4) A recognised laboratory must—
  - (a) create records relating to its functions and activities, including records of the methods used, and the precision achieved; and
  - (b) submit a written annual report to the Director-General in August of each year that includes any information required by supplementary notice under subclause (5).
- (5) A recognised laboratory must comply with any reporting requirements for recognised laboratories as specified in a supplementary notice.

## Subpart 2—Recognised persons

### 111 Scope of this subpart

This subpart sets out requirements for the recognition and maintenance of recognition of natural persons under section 73 of the Act.

### 112 General requirements for recognised person

- (1) A natural person applying to be recognised under section 73 of the Act must demonstrate knowledge and understanding of—
  - (a) the applicable regulatory requirements; and
  - (b) particular sectors, industries, or processes that are relevant to the specified functions and activities of the person; and
  - (c) the roles of—
    - (i) the Director-General and wine officers; and
    - (ii) as appropriate, authorised persons; and
  - (d) requirements relating to—
    - (i) the making of the relevant wine; and
    - (ii) the suitability for use of commodities; and
  - (e) good operating practices for wine businesses, as relevant to the person's specified functions and activities.
- (2) A natural person must undergo assessment of their ability to perform the functions and activities for which recognition is sought, if a supplementary notice

- requires assessment for recognition in relation to those types of functions and activities.
- (3) The assessment must be carried out in relation to the following matters specified in a supplementary notice:
    - (a) the levels of assessment;
    - (b) the assessment processes;
    - (c) assessments for different circumstances and types of functions and activities;
    - (d) any other matters relating to the form and content of the assessment.
  - (4) A natural person must meet any qualification or competency requirements relevant to the person's functions and activities, and any specific requirements, including qualifications and competencies as specified in a supplementary notice.
  - (5) The Director-General may approve, for 1 or more named persons, an alternative qualification or competency if it is at least equivalent to the one specified in the supplementary notice.

### **113 Additional requirements for verifiers**

In addition to the requirements of regulation 112, a natural person applying for recognition as a verifier must demonstrate knowledge and understanding of—

- (a) their role as a verifier within the regulatory requirements; and
- (b) hazard analysis; and
- (c) how to perform audits competently; and
- (d) identification and control of risk factors that may affect wine.

### **114 Additional requirements for evaluators**

In addition to the requirements of regulation 112, a natural person applying for recognition as an evaluator must—

- (a) demonstrate knowledge and understanding of—
  - (i) their role as an evaluator within the regulatory requirements; and
  - (ii) identification and control of risk factors that may affect wine; and
  - (iii) hazard analysis; and
  - (iv) how to perform audits competently; and
- (b) demonstrate the ability to assess—
  - (i) the quality of evidence; and
  - (ii) systems and processes before they are in operation.

**115 Application through recognised agency**

A natural person who is employed, engaged, or managed by a recognised agency must apply for recognition through their recognised agency.

**116 Performance standards**

- (1) A recognised person must perform their role to a standard and in such a way that ensures that they are carrying out their specified functions and activities effectively.
- (2) Supplementary notices may specify or set performance standards for recognised persons that carry out specified functions and activities under the Act.

*Maintaining recognition for recognised persons*

**117 Requirements for recognised person to maintain recognition**

- (1) For the purpose of maintaining recognition, a recognised person must continue to—
  - (a) demonstrate knowledge and understanding of the matters referred to in regulation 112, and, if applicable, in regulation 113 or 114; and
  - (b) have in place the systems, processes, and procedures required for granting recognition; and
  - (c) comply with those systems, processes, and procedures; and
  - (d) meet regulatory requirements; and
  - (e) meet any competency and assessment requirements relevant to their specified functions and activities; and
  - (f) hold accreditation with an accreditation body, to the required standard, if the person holds accreditation.
- (2) Supplementary notices may set requirements for the purposes of maintaining recognition, including a continuing professional development programme.

**118 Director-General may require natural person to undergo assessment before and after granting recognition**

- (1) Before recognising a natural person under the Act, the Director-General may require the person to undergo an assessment of—
  - (a) their procedures; or
  - (b) their ability to perform the functions and activities for which recognition is sought.
- (2) The Director-General may require a recognised person to undergo assessment of—
  - (a) their procedures; or
  - (b) their performance of the specified functions and activities.

- (3) The Director-General may require an assessment under subclause (1) or (2) to be carried out by the Director-General or any other body or person as specified by the Director-General.
- (4) The Director-General may require an assessment under subclause (2) to be carried out by a date and with any frequency and in any manner specified by the Director-General.

#### **119 Assessment reports for recognised person**

- (1) A recognised person must provide assessment reports to the Director-General—
  - (a) when requested by the Director-General; or
  - (b) in accordance with, and with the frequency specified in, a supplementary notice.
- (2) Supplementary notices may, for the purposes of this regulation, specify—
  - (a) the types of reports to be provided; and
  - (b) the frequency of providing the reports; and
  - (c) the circumstances in which reports are required.

#### **120 Recognition for natural person independent of recognised agency**

- (1) A natural person who is applying to be a recognised person and who is not employed, engaged, or managed by a recognised agency must demonstrate that the person—
  - (a) has in place a written quality management system that complies with regulation 124; and
  - (b) is able to comply with procedures set out in the quality management system; and
  - (c) if required by subclause (2), holds accreditation with an accreditation body, and to a particular standard, as specified in a supplementary notice, as relevant to the specified functions and activities in relation to which the person is seeking recognition.
- (2) A person must hold accreditation with an accreditation body if—
  - (a) the person carries out specified functions and activities; and
  - (b) a supplementary notice requires accreditation with an accreditation body for carrying out those functions and activities.
- (3) Supplementary notices may, for the purposes of this regulation, specify—
  - (a) the relevant standard for the purposes of subclause (1)(b)(ii); and
  - (b) the functions and activities for which a person must hold accreditation under subclause (2).

**121 Record-keeping requirements for recognised person independent of recognised agency**

- (1) A recognised person not employed, engaged, or managed by a recognised agency must keep the following for at least 7 years:
  - (a) records in relation to the specified functions and activities, and any related activity, of the recognised person;
  - (b) records relating to each wine business for which the person provides services, including any reports provided to the wine business;
  - (c) records required to be kept under any regulatory requirements.
- (2) The recognised person must ensure that records and reports referred to in sub-clause (1)—
  - (a) are kept in a readily accessible format; and
  - (b) are provided on request by—
    - (i) a wine officer; or
    - (ii) the Director-General; or
    - (iii) a person authorised by the Director-General.
- (3) The records must be provided as soon as practicable, but within 2 working days after the request.

**122 Recognised person independent of recognised agency must notify Director-General**

A recognised person who is not employed, engaged, or managed by a recognised agency must notify the Director-General as soon as possible if prevented from carrying out their functions and activities.

**123 Recognised person independent of recognised agency must report to Director-General**

- (1) A recognised person who is not employed, engaged, or managed by a recognised agency must report to the Director-General (within the specified time frame) on becoming aware of any of the following:
  - (a) if the person holds accreditation, any matter or information that may affect their accreditation status (within 1 working day after becoming aware of the matter or information);
  - (b) that the person is to cease to operate (as soon as reasonably practicable, but within 5 working days after ceasing to operate);
  - (c) any non-compliance in relation to the person's activities that has the potential to affect the integrity or effectiveness of the service provided (within 1 working day after becoming aware of the non-compliance).

- (2) A person reporting to the Director-General in accordance with subclause (1)(a) or (c) must also notify the Director-General, within 5 working days after the original notice, of the corrective action the person will take.
- (3) A recognised person reporting to the Director-General under this regulation must, on the request of the Director-General and within the time frame specified in the request, provide additional information in relation to the performance of their functions and activities.
- (4) A recognised person must report to the Director-General on any other matter that is specified in a supplementary notice.

### *Quality management system*

#### **124 Quality management system**

- (1) This regulation sets out the requirements that apply to a quality management system.
- (2) The quality management system must contain procedures for—
  - Conflicts of interest*
    - (a) maintaining independence and managing conflicts of interest:
    - (b) maintaining impartiality:
  - Confidential information*
    - (c) managing the confidentiality of information:
  - Staffing*
    - (d) ensuring that—
      - (i) staff are trained and competent to perform the services for which they are employed or engaged; and
      - (ii) staff are aware of the scope of the specified functions and activities of the agency or person; and
      - (iii) staff performance is regularly monitored:
  - Resourcing*
    - (e) ensuring that the agency or person has adequate resources (including having, or having access to, relevant technical expertise) to carry out its or their specified functions and activities:
  - Reporting requirements*
    - (f) meeting reporting requirements under the applicable requirements of the Act:
  - Records and reports*
    - (g) keeping records and reports required to be kept under the applicable requirements of the Act:

*Complaints and disputes*

- (h) investigating and managing complaints and disputes relating to—
  - (i) the staff of the agency or person:
  - (ii) the performance by the agency or person of its or their specified functions and activities:

*Internal management*

- (i) providing for the regular review of the quality management system:

*Review of performance*

- (j) reviewing the agency's or person's performance of its or their specified functions and activities, for the purpose of ensuring that the applicable requirements of the Act are met:

*Contractual arrangements*

- (k) ensuring that contractual arrangements with any wine business to which the agency or person provides services are documented and appropriate for the services being provided.

- (3) In subclause (2),—

**services** means services under the Act that are within the scope of the specified functions and activities of the agency, person, or staff member

**staff** includes any contractor.

- (4) A quality management system that an agency or a person may be required to have under this Part must also meet the contents and requirements of any supplementary notice.
- (5) The Director-General may issue supplementary notices for the purposes of this regulation specifying further contents and requirements of a quality management system that an agency or a person may be required to have under this Part.

## Part 10

### Fees, charges, and levies

#### 125 Fees, charges, and levies

- (1) The fees and charges set out in Schedule 2 and the levies notified under regulation 126(3) are payable in respect of the matters to which they relate.
- (2) The fees, charges, and levies are exclusive of goods and services tax.

#### 126 Levies

- (1) A levy is payable in respect of the matters set out in Schedule 3 by each wine business that exports wine.

- (2) However, no levy is payable on the first 200,000 litres of wine exported by a wine business in a financial year.
- (3) The Director-General may by notice under section 120(1) of the Act set the rate of the levy on the basis of the following formula (subject to subclause (5)):

$$a \div b$$

where—

- a is an estimate of the costs for the forthcoming financial year, as adjusted, under subclause (4)
- b is an estimate of the total volume of leviable wine that will be exported in the forthcoming financial year by wine businesses that export over 200,000 litres of wine per year.
- (4) The estimated costs referred to in subclause (3) may be adjusted to take into account—
- (a) any estimated shortfall in recovery, or any estimated over-recovery, of the costs for any of the preceding 4 financial years; and
- (b) any actual shortfall in recovery, or any actual over-recovery, of the costs for any of the preceding 4 financial years so far as the shortfall remains to be recovered, or the over-recovery remains to be allowed for.
- (5) The Director-General must not set the rate of the levy in excess of \$0.011 per litre of wine per exporter.
- (6) The rate of the levy notified under subclause (3) applies to the forthcoming financial year and all subsequent years until the notice is revoked or replaced.
- (7) In this regulation,—
- costs** means the costs of the matters set out in Schedule 3
- leviable wine** means the volume of wine exported by a wine business in a financial year other than the first 200,000 litres.
- (8) *See* clause 5 of Schedule 1.

Regulation 126(8): amended, on 1 July 2022, by regulation 4 of the Wine Amendment Regulations 2022 (SL 2022/160).

## 127 When fees, charges, and levies payable

The fees and charges set out in Schedule 2 and the levies notified under regulation 126(3) are payable—

- (a) on receipt of the relevant notification, on the making of the relevant application, or on the performance of the relevant service, as the case may require; or
- (b) in the case of fees payable annually and levies, within 1 month (or within any longer period that the Director-General may allow) after receipt of a written demand for the appropriate amount from the Director-General.

**128 Director-General may grant exemption, waiver, or refund**

- (1) The Director-General may grant an exemption from, or may waive or refund, any fee or charge set out in Schedule 2 or levy notified under regulation 126(3), in whole or in part, in any particular case or class of case.
- (2) The power conferred by subclause (1) includes power to grant an exemption, a waiver, or a refund in any of the circumstances described in section 82Z(1)(a) to (c) of the Act.

**Part 11  
Offences**

**129 Offences**

A person who fails to comply with any regulation listed in Schedule 4 commits an offence for the purposes of section 103(1)(b) of the Act.

**Part 12  
Miscellaneous**

Subpart 1—Supplementary notices

**130 Supplementary notices permitted by these regulations**

- (1) The Director-General is permitted to make supplementary notices to supplement the provisions of these regulations that refer to a supplementary notice.
- (2) The supplementary notices are secondary legislation because of section 120(7) of the Act (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- (3) This regulation does not apply to supplementary notices of the kind referred to in section 120(2)(a) of the Act (which empowers the making of supplementary notices that are referred to in the Act).

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**Legislation Act 2019 requirements for secondary legislation made under this regulation**

<b>Publication</b>	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the secondary legislation.*

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Subpart 2—Revocations

**131 Revocations**

The following regulations are revoked:

- (a) Wine Regulations 2006 (SR 2006/147):

- (b) Wine (Wine Standards Management Plan Registration—Required Part) Regulations 2020 (LI 2020/11).

## Schedule 1 Transitional, savings, and related provisions

r 4

### Part 1 Provisions relating to these regulations as made

#### 1 Interpretation

In this Part, unless the context otherwise requires,—

**commencement** means 1 July 2022

**existing wine standards management plan** means a wine standards management plan that immediately before commencement was a registered wine standards management plan.

#### 2 Existing notices declared to be continuing notices

- (1) On and from 28 February 2022, the following notices are each declared to be a continuing notice for the purpose of clause 5 of Schedule 1 of the Act:
  - (a) Wine Notice: Laboratories Recognised for Testing of Wine for Export issued 16 October 2014:
  - (b) Wine Notice: Recognised Agencies and Persons issued 22 June 2017:
  - (c) Wine Notice: Wine (Specifications) Notice issued 20 December 2006.
- (2) The notices described in subclause (1) are revoked on 1 July 2022.

#### 3 Status of certain amendments to existing wine standards management plans

Amendments to existing wine standards management plans that update the plan to accurately reflect the requirements of the Act, these regulations, and any supplementary notices are not, for the purposes of section 22 of the Act, significant amendments.

#### 4 Verification frequency for wine businesses

- (1) This clause applies to a wine business in respect of which verification—
  - (a) was carried out before commencement; but
  - (b) was not required under an enactment (for example, was required under an operational code).
- (2) The initial frequency with which the wine business must be verified under these regulations is the frequency closest to the frequency with which the business was verified before commencement.

## Part 2

### Provision relating to Wine Amendment Regulations 2019

Schedule 1 Part 2 heading: revoked, on 1 July 2022, by regulation 5(1) of the Wine Amendment Regulations 2022 (SL 2022/160).

#### 5 Rate of levy

- (1) Until the rate of the levy referred to in regulation 126 is notified under regulation 126(3), the rate of the levy—
  - (a) is prescribed at \$0.005 per litre of wine exported; and
  - (b) must be treated as being notified under regulation 126.
- (2) The rate of the levy prescribed under subclause (1)(a) applies to the 2022 financial year and all subsequent years until a new rate is notified under regulation 126(3).

Schedule 1 clause 5(1)(a): amended, on 1 July 2022, by regulation 5(2) of the Wine Amendment Regulations 2022 (SL 2022/160).

Schedule 1 clause 5(2): replaced, on 1 July 2022, by regulation 5(3) of the Wine Amendment Regulations 2022 (SL 2022/160).

## Schedule 2

### Fees and charges

rr 125–128

### Part 1

#### Fees and charges

	<b>Matter for which fee or charge payable</b>	<b>Fee or charge*</b>	<b>Fee or charge payable by</b>
1	Notification for an exemption under regulation 18 from operating under a registered wine standards management plan	\$135 per notification	The notifying winemaker
2	Notification of change in operator's recognised verifying agency under section 13(f) of Act	\$67.50 per notification	The operator of a wine standards management plan
3	Application under section 18 of Act for registration of wine standards management plan fully based on template approved by Director-General	\$202.50 per application plus assessment charge on hourly basis after the first 150 minutes, as specified in Part 2 of this Schedule	The applicant
4	Application under section 18 of Act for registration of customised wine standards management plan	\$337.50 per application plus assessment charge on hourly basis after the first 210 minutes, as specified in Part 2 of this Schedule	The applicant
5	Application for registration of significant amendment to wine standards management plan under section 22 of Act	\$135 per application plus assessment charge on hourly basis after the first 120 minutes, as specified in Part 2 of this Schedule	The applicant
6	Notification for registration of a minor amendment to wine standards management plan under section 23 of Act	\$67.50 per notification	The operator of a wine standards management plan
7	Application for registration as exporter under section 48 of Act	\$135 per application	The applicant
8	Inspection and other individual-focused compliance activities carried out by wine officer under Part 3 of Act	\$135 per inspection or activity plus assessment charge on hourly basis after the first 30 minutes, as specified in Part 2 of this Schedule	The person who is the subject of the inspection or other compliance activities
9	Application for recognition of agency, person, or class of persons under section 71, 73, or 75 of Act	\$168.75 per application plus assessment charge on hourly basis after the first 135 minutes, as specified in Part 2 of this Schedule	The applicant
10	Verifications and audits by the Ministry further to its recognition under section 72(1) of Act	\$135 per verification or audit plus assessment charge on hourly basis after the first	The person who is verified or audited

<b>Matter for which fee or charge payable</b>	<b>Fee or charge*</b>	<b>Fee or charge payable by</b>
	hour, as specified in Part 2 of this Schedule	
11 Ongoing recognition fee under section 82F of Act	\$135 payable annually	The agency or person recognised
12 Performance or exercise of a function, duty, or power that is—	\$67.50	The person whose actions resulted in the function, duty, or power being required to be performed or exercised
(a) required to be undertaken under the Act, including under any regulations or notices; and	plus assessment charge on hourly basis after the first 30 minutes, as specified in Part 2 of this Schedule	
(b) not prescribed elsewhere in these regulations		

\*Fee or charge exclusive of any applicable costs payable under Part 3 or 4 of this Schedule

## Part 2

### Assessment charges on hourly basis

Where Part 1 of this schedule specifies an assessment charge on an hourly basis, that charge is to be determined as follows for each hour (or final part-hour) that is spent on assessing the matter concerned beyond the first period of time specified for that matter in Part 1:

<b>Category</b>	<b>Fee (\$)</b>
(a) for each hour (excluding final part-hour) spent by a person (whether or not employed by the Ministry)	135.00
(b) for each 15-minute block in final part-hour spent under paragraph (a)	33.75

## Part 3

### Costs incurred by Ministry

- 1 Actual and reasonable costs, including actual and reasonable incidental and additional costs incurred by a Ministry employee, or a person engaged by the Ministry who is not an employee, may be recovered by the Ministry where those costs arise from a request by, or an act or omission of, any person under the Act or regulations or notices made under the Act.
- 2 The costs in clause 1 include, but are not limited to,—
  - (a) the costs of external review, expert review, notification, product testing, travel, and accommodation; and
  - (b) disbursements such as the costs of photocopying, printing and stationery, telephone, fax, video conferencing, postage, and couriers.
- 3 For technical staff providing support for the delivery of specialist services in relation to functions, duties, or powers under the Act or any regulations or notices made under the Act, a fee of \$135 per hour is payable, in 15-minute

increments, by the person whose actions result in the function, duty, or power being required to be performed or exercised.

#### **Part 4**

#### **Travel costs**

Where travel of a Ministry employee, or a person engaged by the Ministry who is not an employee, is required for any of the matters specified in Parts 1, 2, and 3 of this Schedule, an additional amount of \$0.67 per kilometre travelled by the employee or person is payable in addition to the relevant fee or charge.

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### Schedule 3

#### Matters in respect of which levy payable

rr 125–128

The levy referred to in regulation 126 is payable in respect of the following matters:

- (a) setting standards, specifications, and requirements relating to export eligibility requirements for the purposes of subparts 2 and 3 of Part 2 of the Act; and
- (b) notifying or making available access requirements for overseas markets in accordance with section 41 of the Act; and
- (c) wine export certification, including—
  - (i) determining, in accordance with the relevant export eligibility requirements and any supplementary notices referred to in section 38(6) of the Act, whether wine is eligible for export:
  - (ii) issuing, in accordance with the relevant export eligibility requirements and any supplementary notices referred to in section 38(6) of the Act, export eligibility approvals:
  - (iii) issuing official assurances in accordance with section 42 of the Act; and
- (d) compliance and systems audit activities related to export and carried out under Part 3 of the Act.

## Schedule 4 Offences

r 129

- Regulation 8(1) (regime when other activities within physical boundaries of plan)
- Regulation 13 (document control and accessibility requirements)
- Regulation 14 (operator reporting requirements)
- Regulation 15 (operator must provide evaluation report to verifier)
- Regulation 16 (operator of wine standards management plan must report certain information to Director-General)
- Regulation 20(1) (wine must be free from hazards)
- Regulation 21 (commodities must be free from hazards)
- Regulation 22 (information requirements about commodities)
- Regulation 23 (transporter must keep wine and commodities free from hazards)
- Regulation 25 (operators' procedures for good operating practices)
- Regulation 26 (places, equipment, and essential services)
- Regulation 27(1) (water)
- Regulation 28 (repairs and maintenance)
- Regulation 29 (cleaning and sanitising)
- Regulation 30 (maintenance compounds)
- Regulation 31 (waste management)
- Regulation 32 (control of pests)
- Regulation 33(1) or (2) (protection against contamination, etc, by people)
- Regulation 34 (control of commodities and winemaking inputs)
- Regulation 35 (processes and practices)
- Regulation 36 (storage as part of winemaking process)
- Regulation 37 (packaging requirements)
- Regulation 38 (suitably skilled staff)
- Regulation 39 (corrective action)
- Regulation 40 (record-keeping by operators)
- Regulation 41 (grape wine must not be associated with false or misleading labelling)
- Regulation 42 (country of origin labelling and identification requirements)
- Regulation 43(1) (requirements for New Zealand grape wine label statements)
- Regulation 44 (labelling of grape ice wine for export)
- Regulation 48 (evaluator restrictions and requirements)
- Regulation 57 (obligations if subject to verification)

Regulation 59 (restriction on verification by previous evaluator)

Regulation 76(1), (2), or (4) (reporting)

Regulation 77(2), (3), or (4) (traceability procedures for wine businesses that make wine)

Regulation 78(2), (3), or (4) (traceability procedures for wine businesses that export wine)

Regulation 79(2) or (3) (additional traceability requirements for New Zealand grape wine)

Regulation 80(2) or (3) (providing traceability information on request)

Regulation 82(1) or (2) (recall procedures)

Regulation 83 (providing details of recall)

Regulation 84 (2) (simulated recall to demonstrate procedures effective)

Regulation 85(2) (frequency of simulated recall)

Regulation 87(2)(export eligibility requirements)

Regulation 89 (record-keeping requirements)

Regulation 90 (accessibility of records)

Regulation 98 (record-keeping by recognised agencies)

Regulation 106 (misleading statements)

Regulation 121 (record-keeping requirements for recognised person independent of recognised agency)

Michael Webster,  
Clerk of the Executive Council.

## **Notes**

### **1 *General***

This is a consolidation of the Wine Regulations 2021 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2 *Legal status***

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3 *Editorial and format changes***

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4 *Amendments incorporated in this consolidation***

Wine Amendment Regulations 2022 (SL 2022/160)