



# Wine Notice

## New Zealand Grape Wine Export Eligibility Requirements

18 August 2020

## TITLE

Wine Notice: New Zealand Grape Wine Export Eligibility Requirements

## COMMENCEMENT

This Wine Notice comes into force on 18 August 2020

## REVOCATION

This Wine Notice revokes and replaces:

- Wine Notice: New Zealand Grape Wine Export Eligibility Requirements, issued 25 March 2020.

## ISSUING AUTHORITY

This Wine Notice is issued under section 120(2) of the Wine Act 2003 for the purposes of section 38, and section 120(1) of the Wine Act 2003 for the purposes of section 54H.

Dated at Wellington, 18 August 2020

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*(acting under delegated authority of the Director-General)*

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## Introduction

This introduction is not part of the Wine Notice, but is intended to indicate its general effect.

This Notice revokes and replaces the previous Wine Notice: New Zealand Grape Wine Export Eligibility Requirements, issued 25 March 2020 for the purpose of amending the application of clauses 3.1A and 5.3.

A full review of the previous 2006 notice has not been undertaken.

## Purpose

The purpose of this Notice is to set export eligibility requirements for the export of New Zealand grape wine. The effect is that New Zealand grape wine can be exported from New Zealand subject to the requirements of a relevant notified overseas market access requirement.

## Background

The purpose of the amendment to this Notice is to enable the continuation of export trade in New Zealand grape wine in the context of logistical challenges posed by COVID-19.

## Who should read this Wine Notice?

This Wine Notice should be read by:

- a) winemakers making New Zealand grape wine,
- b) exporters of New Zealand grape wine, and
- c) auditors.

## Why is this important?

- (1) Failure to comply with the requirements of this Notice may lead to a breach of the Act and could result in wine becoming ineligible for export.

## Document History

Version Date	Section Changed	Change(s) Description
30 June 2006		
24 March 2020	Introduction	<ul style="list-style-type: none"> <li>• Reformatting of document (without review).</li> <li>• References to the Ministry of Agriculture and Forestry (New Zealand Food Safety Authority) updated to the Ministry for Primary Industries</li> <li>• Addition of Introduction section</li> <li>• Addition of clause 3.1A</li> <li>• Amendment to clause 5.3</li> </ul>
21 July 2020		<ul style="list-style-type: none"> <li>• Amendment to Introduction section</li> <li>• Amendment to clause 3.1 (1)</li> <li>• Amendment to clause 3.1A (6)</li> <li>• Amendment to clause 5.3 (7)</li> </ul>

## Part 1: Requirements

### 1.1 Application

- (1) This Wine Notice applies to
  - a) New Zealand grape wine, exporters of New Zealand grape wine, and to New Zealand grape wine, that is intended for export for reward or for purposes of trade, including export to Australia; and
  - b) Auditors.
- (2) Subclause (1)(a) includes bulk wine and wine that is ready for sale.
- (3) This Notice does not apply to commercial samples of grape wine up to a maximum of 110 litres.

### 1.2 Definitions

- (1) In this Notice, unless the context otherwise requires:

**Act** means the Wine Act 2003

**auditor** means a person carrying out audits under Part 5 of this Notice

**commercial sample** means wine that is:

- a) not intended for re-sale and includes trade samples and show samples; and
- b) in a bottle that is clearly marked or clearly indicates that it is not for sale

**export eligibility approval** means an approval granted by the Director-General or his or her nominee that confirms that the requirements imposed on exports of New Zealand grape wine by the Wine Regulations 2006 and this Notice are met

**export eligibility database** means the MPI database where data is stored for the purposes of this Notice

**export eligibility statement** means a statement issued by the Director-General under clause 2.3

**MPI** means the Ministry for Primary Industries (MPI)

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

**NZ Grape Wine Export Code** means the NZ Grape Wine Export Code issued on 30 June 2006 as may be amended from time to time

**winemaking inputs** means anything used to make wine including grapes, food additives and processing aids.

- (2) Any term or expression that is defined in the Wine Act 2003 and the Wine Regulations 2006 and used, but not defined, in this Notice has the same meaning as in that Act and Regulations.

## Part 2: Export eligibility requirements

### 2.1 Requirements for export of New Zealand grape wine

- (1) To be eligible for export from New Zealand, all New Zealand grape wine must:
  - a) be shown to comply with clause 2.2(2)(a) and (b) through an export eligibility approval; and
  - b) in the case of wine that requires an official assurance, meet any relevant overseas market access requirements notified in accordance with section 41 of the Act.

### 2.2 Export eligibility approval

- (1) Any person may apply for an export eligibility approval in the form and manner specified from time to time by the Director-General.
- (2) The Director-General or his or her nominee may issue an export eligibility approval in respect of New Zealand grape wine if satisfied that the wine:
  - a) is free from obvious fault; and
  - b) has a related set of audited winemaking records that enable:
    - i) traceability; and
    - ii) accuracy of label statements to be determined.
- (3) The export eligibility approval may be granted in such a manner as the Director-General considers appropriate.
- (4) Subject to clause 2.4, an export eligibility approval will be valid for the period determined by the Director-General or his or her nominee, which may be a maximum of 2 years.

### 2.3 Export eligibility statements

- (1) The Director-General may issue an export eligibility statement in respect of any New Zealand grape wine that has a current export eligibility approval.
- (2) Any person intending to export a New Zealand grape wine may apply for an export eligibility statement in respect of that wine in the form and manner specified from time to time by the Director-General.
- (3) No person may alter the wording of any export eligibility statement unless the prior approval of the Director-General has been obtained.
- (4) No person shall use an export eligibility statement for a fraudulent purpose.

### 2.4 Revocation of export eligibility approval and statement

- (1) The Director-General may revoke an export eligibility approval or an export eligibility statement if the Director-General is satisfied that the wine to which it relates does not comply with clause 2.2(2)(a) or (b) or any other relevant requirement in this Notice.

## Part 3: Free from obvious fault

### 3.1 Determination that wine is free from obvious fault

- (1) To enable the Director-General to be satisfied that wine is free from obvious fault, the applicant for an export eligibility approval must meet the requirements of clause 3.1 or, if it applies, meet the requirements of clause 3.1A.
- (2) An applicant must submit one or more samples for sensory evaluation in accordance with the NZ Grape Wine Export Code.
- (3) The sample of wine submitted must be of a kind to which the application for approval relates.
- (4) The samples of wine submitted must relate to a homogenous amount of wine that is either packaged for retail sale, ready to be packaged for retail sale without any further winemaking adjustments, or that is ready to be exported without any further wine making adjustments.
- (5) The sensory evaluation must be conducted in accordance with the NZ Grape Wine Export Code.
- (6) The Director-General must ensure that when notified of the results of the sensory evaluation, those results are recorded on the export eligibility database as soon as reasonably practicable.

#### 3.1A Temporary alternative mechanism to determine that wine is free from obvious fault

- (1) An applicant for export eligibility for a batch of wine must arrange for an experienced winemaker to conduct a sensory evaluation of a sample of the wine to determine whether the wine is free from obvious fault. If the applicant is an experienced winemaker, the applicant may conduct the sensory evaluation.
- (2) The applicant must submit an application for export eligibility for a batch of wine via Wine E-cert, and must submit the following via email:
  - a) a clear digital photograph(s) of the front and back labels for the wine including:
    - i) Wine Batch number, WB #
    - ii) Company name
    - iii) Main wine name (Vintage, region, variety)
    - iv) Winemaker reference
    - v) Sensory sample number, WS #
  - b) a clear digital photograph of the bottler reference (lot number), if this not on the label;
  - c) a signed declaration by an experienced winemaker, on a form provided by the Director-General, that, based on the sensory evaluation, they are satisfied that the wine that is the subject of the application is free from obvious fault;
- (3) The applicant must retain at least two library samples of each batch of wine for which the absence of obvious fault is determined for a period of 24 months from the date of export eligibility approval.
- (4) An experienced wine maker for the purposes of this clause is one who has at least two years' winemaking experience and is sufficiently skilled to enable them to detect obvious faults in wine.
- (5) The sample must be a representative of homogenous amount of wine that is either packaged for retail sale, ready to be packaged for retail sale without any further winemaking adjustments, or that is ready to be exported without any further wine making adjustments.
- (6) This clause applies if a COVID-19 alert level 3 (or above) order made under section 11 of the COVID-19 Public Health Response Act 2020 is in force, and continues to apply for 28 days after the order is revoked.

## **3.2 Right of review**

- (1) If wine is determined by sensory evaluation not to be free from obvious fault, the applicant for the export eligibility approval is entitled to have this determination reviewed by the Director-General.
- (2) The Director-General must review the determination acting on the advice of persons considered by the Director-General to have appropriate expertise relating to wine.



## Part 4: Record keeping

### 4.1 Records accessibility

- (1) Winemakers and other persons as required in this Notice must retain records to demonstrate that the requirements of this Notice have been met.
- (2) Records must be:
  - a) accessible to the auditor, wine officers and the Director-General and any other person authorised by the Director-General; and
  - b) retained for a period of at least 7 years or other period where provided for in this Notice; and
  - c) retrievable within 2 working days or other period as determined by the auditor, wine officer, Director-General or other person authorised by the Director-General.

### 4.2 Record keeping requirements

- (1) Winemakers must document and maintain records for wine and winemaking inputs that enable:
  - a) grapes used to make that wine to be tracked from vineyard of origin through to sale of wine; and
  - b) wine in a particular package to be traced back to the source vineyards of the grapes from which that wine was made; and
  - c) all other winemaking inputs to be identified; and
  - d) the truthfulness and accuracy of any label statements regarding wine variety, vintage, area of origin, and country of origin to be determined; and
  - e) where relevant, compliance with applicable labelling requirements under the New Zealand (Australia New Zealand Food Standards Code) Food Standards 2002 to be demonstrated.
- (2) Winemakers must maintain records to provide auditable trails for wine and grapes and other winemaking inputs that are based on product coding that enables individual wines as submitted for export eligibility approval to be separately and clearly identified.

## Part 5: Audit requirements

### 5.1 Purpose of audit

- (1) The purpose of the audit is to enable the Director-General to determine whether the records kept by the winemaker for the purpose of complying with this Notice:
  - a) meet the requirements of this Notice; and
  - b) accurately reflect the activities of the winemaker with regard to wine making operations; and
  - c) demonstrate that the wine is consistent with any label statements associated with that wine.

### 5.2 Auditor competencies and requirements

- (1) Any person who wishes to act as an auditor for the purposes of this Notice must:
  - a) be either:
    - i) qualified as an auditor in terms of section 199 of the Companies Act 1993 ('Qualification of auditors'); or
    - ii) accredited to relevant ISO Standards; and
  - b) provide to MPI a statement in the form approved by the Director-General that affirms that the auditor understands the requirements of this Notice and the NZ Grape Wine Export Code.

### 5.3 Audit requirements

- (1) Winemakers must ensure that audits are carried out for the purposes of this Notice by auditors at least annually.
- (2) Notwithstanding sub-clause (1), for the period specified in sub-clause (7), winemakers must ensure that audits are carried out either annually or as soon as is practicable after the annual anniversary.
- (3) Audits must be carried out in accordance with the NZ Grape Wine Export Code.
- (4) If required by the Director-General, winemakers must ensure that auditors carry out supplementary audits.
- (5) The Director-General may require supplementary audits:
  - a) if the Director-General has cause for concern that any requirements of the Act, the Wine Regulations 2006, or this Notice have not been complied with; or
  - b) if an audit report records a non-compliance.
- (6) Auditors must maintain records for audits performed for the purposes of this Notice and these records must include sufficient information to enable evaluation of the audits undertaken.
- (7) Clause 5.3(2) applies if a COVID-19 alert level 3 or above order made under section 11 of the COVID-19 Public Health Response Act 2020 is in force.