



Wine Geographical Indications

Proposed amendment to the 85% rule in section 21 of the Geographical Indications (Wine and Spirits) Registration Act 2006

MPI Discussion Document
Paper No: 2015/27

Prepared for the Ministry for Primary Industries and the
Ministry of Business, Innovation and Employment

ISBN No: 978-0-908334-73-5 (online)
ISSN No: 2253-3907 (online)

July 2015

Disclaimer

While every effort has been made to ensure the information in this publication is accurate, the Ministry for Primary Industries does not accept any responsibility or liability for error of fact, omission, interpretation or opinion that may be present, nor for the consequences of any decisions based on this information.

This publication is available on the Ministry for Primary Industries website at <http://www.mpi.govt.nz/news-and-resources/publications/>

© Crown Copyright - Ministry for Primary Industries

1	Proposed amendment to section 21 of the Geographical Indications (Wine and Spirits) Registration Act 2006	1
2	Submissions	1
3	Background	2
4	Problem definition	2
5	Options	3
6	Objectives and criteria for analysing the options	3
7	Analysis of options	4
8	Retain the current 85% rule for geographical origin	5
9	Consequential amendment to the Wine (Specifications) Notice 2006	5
10	Consultation	5
11	Next steps	6
12	Implementation plan	6
13	Monitoring, evaluation and review	6
14	This is a targeted consultation on the 85% rule	6
	Questions for Feedback	7

1 Proposed amendment to section 21 of the Geographical Indications (Wine and Spirits) Registration Act 2006

The Ministry of Business, Innovation and Employment (MBIE) and the Ministry for Primary Industries (MPI) are seeking views on a proposal to amend section 21 of the Geographical Indications (Wine and Spirits) Registration Act 2006 (the Act). The amendment would specify that New Zealand registered geographical indications may only be used to identify wine if the wine is made solely from grapes harvested in New Zealand.

A geographical indication is a name, usually a regional name, which is used to identify the origin of goods where some quality, reputation or other characteristic of the goods are related in some essential way to their geographical region. In the case of New Zealand wine, there could potentially be a number of geographical indications registered, such as 'Marlborough', 'Nelson', or 'Hawkes Bay'.

Subject to submissions received as part of this consultation, the Government intends to include the proposal in an amendment Bill that has other amendments required to implement the Act. The amendment Bill is being prepared for introduction later this year. Subject to Parliamentary processes, the intention is to implement the Act in 2016.

2 Submissions

MBIE and MPI welcome written submissions on the proposal contained in this document. All submissions must be received by MPI **no later than 27 July 2015**.

Written submissions should be sent directly to:

Jason Frick
Policy Analyst, Forestry and Plant Sector Team
Policy and Trade Branch
Ministry for Primary Industries
PO Box 2526, Wellington 6140
Email: Jason.Frick@mpi.govt.nz

We will consider all relevant material made in submissions, so you are welcome to provide information supporting your comments. Please make sure you include the following information in your submission:

- The title of this consultation document;
- Your name and title;
- Your organisation's name (if you are submitting on behalf of an organisation), and whether your submission represents the whole organisation or a section of it; and
- Your contact details (that is, phone number, address, and email).

Submissions are public information

Note, your submission is public information. Submissions may be the subject of requests for information under the Official Information Act 1982 (OIA). The OIA specifies that information is to be made available to requesters unless there are sufficient grounds for withholding it, as set out in the OIA. Submitters may wish to indicate grounds for withholding specific information contained in their submission, such as if the information is commercially

sensitive or if they wish personal information to be withheld. MPI will take such indications into account when determining whether or not to release the information.

Any decision to withhold information requested under the OIA is reviewable by the Ombudsman. For more information please visit:

<http://www.ombudsman.parliament.nz/resources-and-publications/guides/official-information-legislation-guides>

3 Background

A geographical indication is a name, usually a regional name, that is used to identify the origin of goods where some quality, reputation or other characteristic of the goods are related in some essential way to their geographical region. Examples of geographical indications include Champagne and Scotch whisky. In the case of New Zealand wine, there could potentially be a number of geographical indications registered, such as ‘Marlborough’, ‘Nelson’, ‘Hawke’s Bay’ or ‘Central Otago’.

4 Problem definition

If implemented without amendment, the Act will require that if a New Zealand registered geographical indication is used for a wine, at least 85% of the wine is obtained from grapes harvested in the geographical region to which the geographical indication relates (the 85% rule). As the Act is silent on where the grapes that make up the remaining 15% of the wine were harvested, this means up to 15% of the wine could be made from grapes harvested in another country or region.

Blending New Zealand wine with wine made from grapes harvested in another country can impact on the integrity of New Zealand wine and its premium positioning in the global market¹. Building this integrity and global positioning has required significant investment from the New Zealand industry over the last decade. One risk of cross-country blending is that the wine for blending could be sourced from grapes of a country that may not have the same regulatory oversight and risk management controls for grape growing and wine making as in New Zealand (for example, made under a registered wine standards management plan that is verified annually). Also, the wine industry’s marketing and promotion strategy involves complying with the industry’s ‘*Sustainable Winegrowing New Zealand*’ programme and there is a risk that cross-country blended wine would not fit with that programme.

There is no obligation under the Act to declare on the label whether any of the wine in the bottle is made from grapes harvested outside the region concerned, as permitted under the 85% rule. Under the Wine Regulations 2006, if there was any cross-country blending, the same bottle would be required to state that wine has been made from grapes harvested in New Zealand and another country. This could potentially mislead some wine consumers as they may not be aware that the two statements are for different purposes.

Do you agree with MPI’s characterisation of the problem with the 85% rule in the Act? To what extent are these problems relevant and important to your business, to the wider New Zealand wine industry, and to help facilitate international trade?

¹ In the year to 30 June 2014 New Zealand grape wine exports were worth \$1.33 billion. Around 83% of the exports by volume were to Australia, the United States and the United Kingdom. The New Zealand wine industry’s success comes from its positioning as a distinctive premium wine in these markets. The New Zealand wine industry cannot compete with major wine producers, like Australia, on volume and range of offerings in these markets.

5 Options

We have identified the following two options to address the problem above.

- Option 1 (Status quo): Keep the 85% rule and remain silent on where the grapes for the other 15% of wine is sourced from.
- Option 2 (MPI's preferred option): Amend the Act to require that where blending occurs the remaining 15% of the wine come from grapes harvested within New Zealand.

For the purpose of clarity, option 2 would not require wine with a New Zealand registered geographical indication to disclose on its label that 15% of the wine came from another region within New Zealand. This means, for example, that winemakers could still meet advance orders if a season provides a lower than expected grape yield due to some local climatic event in their own region.

We would like to hear from you what your views are on these two options, and their advantages and disadvantages. If you would like to suggest another option, please provide a description of that option, why you consider that to be a better option, and what are its advantages and disadvantages.

6 Objectives and criteria for analysing the options

The proposed amendment aims to provide an appropriate level of protection for the integrity and reputation of New Zealand wine as a premium product in the domestic and global markets, and to better facilitate international trade.

MBIE and MPI have identified the following as criteria against which to assess the options:

- Risk to New Zealand wine's reputation and its premium positioning in the global market.
- Clarity for wine consumers.
- Ability to seek cross-registration of New Zealand registered geographical indications in offshore markets.
- Impact on innovation (e.g. developing innovative products).

We are interested in your views on whether we have identified the appropriate objectives of the amendment and criteria for assessment, and whether there are other objectives or criteria that should be added to this set.

7 Analysis of options

Table 1: Comparing the status quo (85% rule) with requiring all wine to be from grapes harvested in New Zealand

Assessment Criteria	Option 1 (Status Quo – silent on the source of grapes for the remaining 15% of the wine)	Option 2 (Require 100% New Zealand grapes)
Risk to New Zealand wine's reputation and its premium positioning in the global market	Blending wine from foreign grapes and labelling with a New Zealand registered geographical indication under the current 85% rule may potentially put the integrity of New Zealand wine at risk. Such blending may cause significant and lasting impact on consumer trust in 'New Zealand wine', initially within New Zealand with flow-on effects in international markets. The risk is higher if the imported wine for blending is from grapes harvested in countries that do not have the same regulatory oversight and risk management controls for grape growing and wine making as in New Zealand.	Removes the risk of blending with wine from countries that do not have the same regulatory oversight for grape growing and wine making as in New Zealand and are not made to the same specification as in New Zealand.
Clarity for wine consumers	<p>A geographical indication applied to a wine provides a statement about the country of origin of the grapes used to make the wine. Consumers may view a label as misleading if the wine contains some wine from non-New Zealand grapes as permitted under the current 85% rule.</p> <p>When in force a label on a bottle of wine with registered geographical indication could state, for example, 'Marlborough' with 85% of the wine made from grapes harvested in Marlborough. To meet the current country of origin labelling requirements under the Wine Regulations 2006, the same bottle would also state grapes have been harvested in New Zealand and another country. This could confuse some wine consumers as some would not be aware that the two statements are for different purposes.</p> <p>A geographical indication gives consumers information about a characteristic of a wine, such as its quality, or reputation, that consumers associate with the region to which the geographical indication relates, and helps consumers distinguish wines from that region from wines from other regions. Blending wine made from grapes grown in New Zealand with wine made from grapes grown in another country may remove that association with a particular region.</p>	<p>The proposed amendment would provide assurance to a consumer that a wine sold using a New Zealand registered geographical indication is made solely of New Zealand grapes.</p> <p>The proposed amendment would remove potential for confusion for wine consumers who may not be aware that the two statements are for different purposes.</p> <p>The association of the blended wine is much closer to the stated geographical indication.</p>
Impact on innovation	The 85% rule would mean winemakers could create new products that included grapes and wine from outside New Zealand, while using a New Zealand registered geographical indication. This could allow for some innovation.	The proposed amendment would not prevent winemakers from supplying the domestic and export markets with wine composed of blended New Zealand and imported grapes provided they do not use a New Zealand registered

8 Retain the current 85% rule for geographical origin

The proposed amendment would not change the ability in section 21 of the Act (when in force) for up to 15% of the wine in any New Zealand registered geographical indication wine to come from grapes harvested in another New Zealand region without needing to disclose it on the label. For example, ‘Marlborough Riesling’ could be blended with up to 15% of ‘Nelson Riesling’. This means winemakers could still meet advance orders if a season provides a lower than expected grape yield due to some local climatic event in their own region. There would be no change to their ability to source similar grapes from another region in New Zealand to meet a shortfall. While a label on a bottle of wine would state the sources of grapes to meet the country of origin labelling requirement under the Wine Regulations 2006, it would not be required to disclose if up to 15% of wine came from grapes harvested in another New Zealand region for geographical indications purpose.

This recognises that regional seasonal variations in crop yields is common in grape production and the different wines and grapes used in the blended product have been produced under the same regulatory oversight and risk management controls regardless of which New Zealand region the grape was sourced from.

9 Consequential amendment to the Wine (Specifications) Notice 2006

In line with the proposed amendment to the Geographical Indications (Wine and Spirits) Registration Act 2006, MPI also proposes to clarify this issue in clause 6 of the Wine (Specifications) Notice 2006 (the Notice), made under the Wine Act 2003. Currently clause 6 of the Notice requires that where a grape wine label includes a statement regarding a single grape variety, vintage or area of origin, at least 85% of the wine must be from the stated variety, vintage or area of origin. MPI proposes to amend clause 6 to require that wines with regional names that are New Zealand registered geographical indications are made solely from grapes harvested in New Zealand. Subject to Parliamentary processes, MPI is proposing that the two amendments, to the Act and the Notice, come into force at the same time.

10 Consultation

In May 2015 New Zealand Winegrowers, the industry body representing New Zealand grape growers and grape winemakers, wrote to the Government to seek the proposed amendment.

After initial analysis of the proposal, MBIE and MPI have agreed to proceed with this discussion paper for industry consultation with the intention of getting a deeper understanding of the issues, the level of industry support for the proposal, the likely impact on makers and traders of wine and wine products, and whether there are other options to address the issue.

While the issue may be of greater relevance to winemakers and wine traders, we would like to hear from anyone who may be impacted by the proposal, particularly whether:

- you agree with our characterisation of the problem;
- you support or oppose the proposal; and
- the proposal will impact your business and the New Zealand wine industry.

If the Government agrees to include the proposed amendment in the amendment Bill there will be further opportunity for industry and public submission at the Select Committee stage.

11 Next steps

Subject to submissions received as part of this consultation, the Government intends to include the proposed amendment in an amendment Bill that has other amendments required to implement the Act. The amendment Bill is being prepared for introduction later this year. Subject to Parliamentary processes, the intention is to implement the Act in 2016.

12 Implementation plan

Subject to industry submissions, the proposed amendment to the 85% rule will be incorporated into the Geographical Indications (Wine and Spirits) Registration Amendment Bill.

It is intended that the Intellectual Property Office of New Zealand (IPONZ), part of MBIE, will be responsible for implementing the Act. IPONZ would develop and implement a register for geographical indications, including developing guidelines and undertaking publicity about implementation of the Act. Provisions relating to the registration process and establishment and maintenance of a register, and appeals procedures are already in the Act. MBIE will develop regulations to set out the procedures for registering geographical indications under the Act.

The proposed amendment to the 85% rule would not introduce any new compliance costs as the proposal only changes the composition of New Zealand wine for which geographical indication registration is sought, from 85% to 100% use of New Zealand grapes. The registration of geographical indications will be at the discretion of those wanting to protect their geographical indications.

13 Monitoring, evaluation and review

The operation of the Act will be monitored as part of the Intellectual Property Office of New Zealand's normal reporting processes. In addition, MBIE will seek the view of the New Zealand wine industry regarding the operation of the Act from the point of view of users of geographical indications.

14 This is a targeted consultation on the 85% rule

This is a targeted consultation to amend section 21 of the Act (85% rule). You will have an opportunity to make submissions on other amendments when the amendment Bill is at Select Committee later in 2015.

QUESTIONS FOR FEEDBACK

1. Do you agree with MPI's characterisation of the problem with the 85% rule in the Act (as in section 4 of this paper)? If not, why not?
2. How significant and relevant do you consider this problem to be to:
 - (a) Your business;
 - (b) The wider New Zealand wine industry;
 - (c) Export markets for New Zealand wine?
3. Have we identified the correct objective (as in section 6 of this paper)?
4. Have we identified the right set of criteria for assessing the options? Are there others you consider should be added to this set (as in section 6 of this paper)?
5. What are your views on the two options discussed in this paper, and what you consider to be the costs and benefits of the two options?
6. Would you like to suggest another option? Please provide a description of that option and reasons for supporting that option and its advantages and disadvantages.
7. Do you currently make or trade cross-country blended wine? How would the proposed amendment to the 85% rule impact on your business practice?
8. Do you have any other comments on the proposed amendment to the 85% rule?