



Wine Notice

Draft for Consultation

Notice for Wine Recognised Agencies and Persons 2014

TITLE

Wine Notice: Notice for Wine Recognised Agencies and Persons 2014

COMMENCEMENT

This Wine Notice comes into force on ..

REVOCATION

This Wine Notice revokes and replaces the Wine (Recognised Agencies and Persons) Notice 2010 issued on 21 December 2010.

ISSUING AUTHORITY

The Director General having consulted in accordance with section 115 of the Wine Act 2003, issues this Notice under section 120 of the Wine Act 2003.

Dated at Wellington this ... day of 2014

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Peter Thomson
Director, Plants, Food & Environment
Ministry for Primary Industries
(acting under delegated authority of the Director General)
A copy of the instrument of delegation may be inspected at the Director General's office.

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Introduction

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

Purpose

- (1) To set requirements for agencies and persons who are recognised or wish to be recognised under the Wine Act 2003 to perform Wine Standards Management Plan verifications.
- (2) Specifically the notice contains requirements for:
 - a) Becoming recognised,
 - b) functions and activities for recognised agencies and persons,
 - c) reporting, and
 - d) performing verification.
- (3) This Wine Notice excludes laboratories as agencies recognised under the Wine Act 2003. Recognition for laboratories is included in the Wine Notice: Laboratories Recognised for Testing of Wine for Export 2014.

Background

- (1) This Notice is issued under the Wine Act 2003.
- (2) This Notice sets out requirements for agencies and persons becoming recognised and performing verification of Wine Standards Management Plans under the Wine Act 2003.
- (3) Some of the objectives of the Wine Act 2003 provide the legal basis for managing risks to human health from wine making and also for identity and truth in labelling. The Act also assists in facilitating the export of wine. Recognised Agencies and Persons assist in meeting these objectives by checking compliance with relevant standards.

Who should read this Wine Notice?

- (1) This Notice applies to agencies and persons that are recognised or interested in becoming recognised under the Wine Act 2003 to perform verification functions and activities.
- (2) Other wine related businesses may also be interested in this Notice.

Why is this important?

- (1) It is a requirement that agencies and persons providing verification functions and activities under the Wine Act 2003 must be recognised in accordance with this Notice before doing so.
- (2) Failure to meet requirements in this Notice may result in further steps being taken by MPI under relevant clauses in Part 3 and 4 of the Wine Act 2003.

Contacts

- (1) For questions or further information relating to this notice please email wine.query@mpi.govt.nz.

Other information

- (1) This Notice extends the timeframe for temporary recognition under Clause 7 to 1 July 2017 instead of 1 July 2014 in the Wine (Recognised Agencies and Persons) Notice 2010.
- (2) Ultimately, final recognition requirements for agencies will be considered and consulted on before being decided upon for inclusion in subsequent versions of this Notice.

Part 1: Requirements

1.1 Application

- (1) This Notice applies to agencies and persons that are recognised or interested in becoming recognised under the Wine Act 2003 to perform verification functions and activities specified in clauses 2.2 and 3.2.
- (2) This Wine Notice does not apply to laboratories as recognised agencies under the Wine Act 2003.
- (3) Other wine related businesses may also be interested in this Notice.

1.2 Definitions

- (1) *Acceptable outcome* means that the verifier is satisfied:
 - a) That the operator is complying with New Zealand regulatory requirements and, where applicable, export requirements and any specific overseas market access requirements and
 - b) where there have been any departures from any regulatory requirements that the operator's corrective actions have been, or are being, applied appropriately and are effective.
- (2) *Accreditation body* refers to IANZ and JAS-ANZ, which are independent organisations of international standing that accredit organisations to ISO standards.
- (3) *Act* means the Wine Act 2003.
- (4) *Critical non-compliance* means any departure from 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 overseas market access.
- (5) *Director-General* means the Director-General of the Ministry for Primary Industries.
- (6) *Evaluation* means the process of assessment, independent of the operator, of the validity of a wine standards management plan for the purposes of providing an independent evaluation report under section 18(1)(b) of the Act.
- (7) *Evaluator* means a person who is an individual who is recognised under the Act to perform evaluation.
- (8) *IANZ* means the accreditation body, International Accreditation New Zealand.
- (9) *ISO17020* refers to ISO/IEC17020:2012(E) which is the current edition on Conformity assessment - requirements for the operation of various types of bodies performing inspection.
- (10) *JAS-ANZ* means the accreditation body, Joint Accreditation System of Australia and New Zealand.
- (11) *MPI* means the Ministry for Primary Industries.
- (12) *NZQA* means the New Zealand Qualifications Authority.
- (13) *Unacceptable outcome* means that the verifier is not satisfied that the operator is in compliance with the regulatory requirements relevant to their operation including where:
 - a) The operator has failed to identify or effectively address a critical non-compliance; or
 - b) there are numerous non-compliances that collectively prevent the verifier from having confidence in the operation of the system being verified; or
 - c) the required records are absent, incomplete or have been altered, to a degree that prevents the verifier from having confidence in the system being verified; or

- d) the verifier determines that the wine standards management plan is no longer appropriate to the operation.

Guidance

- *Verifier* means an individual who is recognised under the Act to perform verification functions and activities (also known as a Recognised Person in the Act.)
- *Verification* is the process whereby a verifier determines compliance of a wine business with the registered Wine Standards Management Plan. Where a wine business with a registered Wine Standards Management Plan is exporting, compliance with export requirements and any specific market access requirements will also be determined.

- (14) This Notice applies to agencies and persons that are recognised or interested in becoming recognised under the Wine Act 2003 to perform verification functions and activities
- (15) Other wine related businesses may also be interested in this Notice.

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Part 2: Recognised Agencies

2.1 Becoming a Recognised Agency

- (1) Every agency that wishes to be recognised to perform verification must be accredited:
 - a) By an accreditation body in accordance with ISO17020 as a Type A inspection body.
- (2) The Director-General may grant temporary recognition to agencies that are not accredited under subclause (1)(a) provided that:
 - a) The temporarily Recognised Agency is qualified to be recognised under the Act in every respect apart from being accredited under subclause (1)(a);
 - b) the Director-General considers it is necessary or desirable to grant the temporary recognition to provide sufficient time for identifying options for final recognition; and
 - c) any temporary recognition will expire on 1 July 2017, or any earlier date specified in a Notice of Recognition.
- (3) The agency must have documented procedures to ensure that:
 - a) Recognised Persons employed or engaged by it comply with the requirements of the Act and associated regulations, notices, directions and conditions relevant to their functions and activities; and
 - b) the reports and other information arising from the performance of functions and activities, and the dispute procedures are communicated to wine businesses to which they relate and the Director-General.

2.2 Functions and activities that may only be undertaken by a Recognised Agency

- (1) Agencies responsible for managing or supplying any of the following functions and activities must be recognised under the Act for those specific purposes:
 - a) Verification of businesses operating under a Wine Standards Management Plan.
 - b) Verification of export, export eligibility requirements and official assurances issued under the Act.

2.3 Notification and reporting requirements

- (1) A Recognised Agency must notify the Director-General:
 - a) In writing within 30 days of any change in the directorship, management, or control of the Recognised Agency; and
 - b) in writing within 30 days where a Recognised Person ceases to be employed or engaged by it.
 - c) As soon as practicable where any Recognised Person employed or engaged by it has been found to not meet the requirements imposed by or under the Act; and
 - d) as soon as practicable after any contractual arrangement with the operator of a Wine Standards Management Plan for the provision of verification functions and activities has been terminated.
- (2) A Recognised Agency must report to the Director-General:
 - a) On the completion of verification, including any follow up activity, the outcome assigned to the verification visit and any changes to the verification frequency; and
 - b) in the event that the operator fails to undertake a corrective action within the agreed period of time.

2.4 Records, their information and accessibility

- (1) Recognised Agencies must retain records and other information relating to the functions and activities managed or supplied by that agency.
- (2) The Director-General or any wine officer can request, inspect and make copies of records and other information retained under sub clause (1).
- (3) The records retained under sub clause (1) must be retained for a period of at least seven years.

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Part 3: Recognised Persons

3.1 Becoming a Recognised Person

- (1) Any person applying for recognition who is subject to the management of a Recognised Agency, or an agency that is in the process of applying for recognition, must submit his or her application through that agency.
- (2) The Recognised Agency must confirm to the Director-General that the person meets the requirements in sub clause (3).
- (3) To be recognised by the Director-General, a person must:
 - a) Have achieved an audit qualification certified by a IANZ or JAS-ANZ accredited body, or have attended a NZQA-recognised audit course, or obtained a MPI unit standard in auditing at level 6 or above, or any alternative approved by the Director-General as a generally equivalent qualification for a Recognised Person; and
 - b) demonstrate recent satisfactory performance as an auditor; and
 - c) demonstrate knowledge and experience that will enable the Director-General to determine that the person is able to adequately and competently act as a recognised person in the wine industry; and
 - d) demonstrate an understanding, to the extent relevant to the person's recognition, of the Wine Act 2003 regime and associated non-legislative information.

3.2 Functions and activities of Recognised Persons

- (1) Persons carrying out the following functions and activities must be recognised under the Act for those specific purposes:
 - a) Evaluation of Wine Standards Management Plans.
 - b) Verification of businesses operating under a Wine Standards Management Plan.
 - c) Verification for the purposes of export, export eligibility requirements and official assurances issued under the Act.

3.3 Restriction on performing verification and evaluation functions

- (1) A person recognised as both a verifier and an evaluator may not perform both functions on the same Wine Standards Management Plan within a two-year period.

Part 4: Performing a Verification

4.1 Verification scope

- (1) At the beginning of each verification, the verifier must advise the operator being verified of the scope of the verification.
- (2) Despite sub clause (1), the verifier is not restricted to the planned scope during a verification should the verifier see the need to expand the scope during the verification.

4.2 Assigning an outcome

- (1) At the completion of verification, the verifier must assign an outcome to the verification.
- (2) The operator being verified must be informed of the outcome at the completion of verification.

4.3 Reporting requirements

- (1) Where a verification visit is assigned an unacceptable outcome due to a failure of the operator to identify or effectively address a critical non-compliance, the verifier must report the critical non-compliance to the Director-General within 24 hours, and include any recommendations.
- (2) Within five working days of undertaking verification, the verifier must provide the Recognised Agency and the operator a written report that identifies:
 - a) The verification outcome and any change to the verification frequency.
 - b) Any non-compliances and corrective actions to be undertaken to confirm that the operator has addressed each non-compliance.
 - c) When the next verification will be undertaken (this does not prevent unscheduled verification); and
 - d) any failure of the operator to comply with their duties under section 13 of the Act.

4.4 Preventing a verifier from performing verification functions and activities

- (1) Where a verifier is prevented from completing verification functions and activities for which they are recognised, that person must:
 - a) Advise their managing Recognised Agency if applicable and the Director-General as soon as practicable; and
 - b) recommend to the Recognised Agency if applicable and the Director-General any actions to be taken; and
 - c) confirm the advice to the Director-General in writing.