



Wine Makers Amendment Act 2003

Public Act 2003 No 10
Date of assent 1 April 2003
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Wine Makers Amendment Act 2003.
- (2) In this Act, the Wine Makers Act 1981 is called the “principal Act”.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Interpretation

Section 2 of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**Director-General** means the chief executive of the Ministry
“**exporter** means a person who exports any wine from New Zealand for reward or for purposes of trade; and includes the New Zealand agent or representative of that exporter

“**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

“**Ministry** means the Ministry that has, with the authority of the Prime Minister, for the time being assumed responsibility for the administration of this Act

“**notice** means a notice given under section 26A

“**official assurance** has the meaning given by section 26B

“**wine maker** means a person who, for reward (otherwise than as an employee) or for purposes of trade, makes wine.”

4 New sections 26A and 26B inserted

The principal Act is amended by inserting, after section 26, the following sections:

“26A Director-General may notify or make available access requirements for overseas markets for grape wine

- “(1) The Director-General must either notify or make available to exporters and makers of grape wine known to the Director-General any particular market access requirements for overseas markets for grape wine that New Zealand has recognised.
- “(2) Where overseas market access requirements are notified or made available under subsection (1), the Director-General may, where he or she considers it necessary or desirable, issue notices that specify the manner in which the access requirements may or must be met.
- “(3) Where the Director-General notifies or makes requirements available under subsection (1) or subsection (2), the Director-General must make those requirements available for inspection free of charge, or for purchase at reasonable cost, to the exporters and wine makers concerned.
- “(4) Nothing in subsection (3) prevents the Director-General from—
- “(a) charging for access to any website, or information or services provided by any website; or
 - “(b) in the case of overseas market access requirements that are commercially sensitive, limiting access to those requirements to persons who satisfy the Director-

General that their specific export or processing activities cannot be properly undertaken under this Act unless they have that access.

- “(5) Before issuing a notice under subsection (2), the Director-General must do everything practicable on his or her part to consult with the Wine Institute and with wine makers and exporters that appear to the Director-General to be likely to be substantially affected by the contents of the notice.
- “(6) Subsection (5) does not apply if the Director-General considers it necessary or desirable in the public interest that the notice be issued as a matter of urgency, and a failure to comply with that subsection does not affect the validity of a notice issued under subsection (2).
- “(7) A notice under subsection (1) or subsection (2) must—
- “(a) where it affects only 1 person or a small number of persons, and the identity of those persons is known, be notified by the Director-General individually to those persons, either personally or by post or fax addressed to that person, or by electronic means acceptable to the person, at—
 - “(i) the person’s address or electronic address, as supplied by the person for the purposes of this Act; or
 - “(ii) the person’s last known business or residential address, if no address has been supplied by them for the purposes of this Act.
 - “(b) where it is not possible or practicable to give notification in accordance with paragraph (a), be notified by the Director-General—
 - “(i) by notice in the *Gazette* (whether by way of publication of the notice itself, or by notification of its existence together with a statement of where it may be inspected or obtained); and
 - “(ii) where the Director-General considers it practical, by publication or notification in any newspaper or appropriate trade journal or other practicable means (including electronic means).

“26B Director-General may issue official assurances

- “(1) For the purposes of meeting the market access requirements of any foreign government that are notified or made available by

the Director-General under section 26A in respect of any wine to be exported, the Director-General or a person authorised by the Director-General may, in appropriate cases, issue an official assurance in respect of the wine if satisfied that the relevant requirements of the importing country have been met.

- “(2) An official assurance is a statement to a foreign government, attesting, as appropriate, matters in relation to the wine concerned, and that the situation in New Zealand in relation to the wine is as stated in the assurance.
- “(3) An official assurance may—
- “(a) be in the form of a certificate or declaration or in such other form as the Director-General determines:
 - “(b) relate to any 1 or more consignments, makers, or exporters of wine, or 1 or more export destinations:
 - “(c) be communicated to its appropriate destination by writing, fax, electronic means, or any other form of communication that is accurate, clear, and verifiable.
- “(4) An official assurance is not a guarantee that the contents of all or any particular consignment of wine to which it relates—
- “(a) necessarily meet the commercial requirements of the importer; or
 - “(b) are fit for consumption or use no matter what the status or description of the consumer or user, or what has happened to the consignment since it left New Zealand.
- “(5) The Crown is not liable to any person in respect of the provision of any official assurance given in good faith and with reasonable care as to the compliance of wine with the requirements of an importing country.”

5 New sections 31 and 31A substituted

The principal Act is amended by repealing section 31, and substituting the following sections:

“31 Regulations

- “(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
- “(a) prescribing the procedure to be followed in respect of applications and objections to and proceedings before the Licensing Authority:

- “(b) prescribing the procedure to be followed in relation to applications to the Director for certificates under section 25, and the issue of those certificates:
- “(c) prescribing the procedure for the institution, hearing, and determination of appeals to the High Court under this Act:
- “(d) providing for the keeping of records and the filing of returns and reports relating to the making, sale, and export of wine:
- “(e) prescribing forms of applications, licences, and other documents made or issued under or for the purposes of this Act:
- “(f) providing for the appointment of reviewing panels for the purposes of section 25(2), and prescribing the procedure to be followed by such panels:
- “(g) specifying obvious faults in wine for the purposes of section 25(5):
- “(h) prescribing the information or other matters that must be specified, or that may or may not be specified, in any label on any bottle or other container of wine or any class or description of wine, and the requirements that must be met for that information or other matter to be specified or not specified:
- “(i) providing for a system for the provision of official assurances as to the compliance of wine with the requirements of an importing country, and for the withholding of official assurances if wine does not qualify for them:
- “(j) imposing and prescribing duties relating to the export of wine or any class of wine:
- “(k) prescribing fees and charges, or a means by which fees and charges may be calculated, in respect of—
 - “(i) applications and objections to and proceedings before the Licensing Authority:
 - “(ii) applications to the Director for the issue of certificates under section 25, and the issue of those certificates:
 - “(iii) the notification or making available of overseas market access requirements under section 26A:
 - “(iv) applications for official assurances and the provision of official assurances:

- “(1) prescribing offences in respect of the contravention of or non-compliance with any regulations made under this section or notices made under section 26A, and prescribing the amount of any fine that may be imposed in respect of an offence, being an amount not exceeding \$20,000:
 - “(m) providing for such other matters as are contemplated by or necessary for giving full effect to this Act or for its due administration.
- “(2) No regulation may be made under any of paragraphs (b), (d), and (f) to (k) of subsection (1) except on the advice of the Minister tendered after consultation with the Wine Institute.
- “(3) Fees and charges prescribed under subsection (1)(k) may be prescribed having regard to both the direct and indirect costs of administering sections 25 to 26B, and may—
- “(a) prescribe the matters in respect of which fees or charges, or both, are payable, which may include (without limitation)—
 - “(i) additional fees or charges, or both, for services or work provided or carried out outside normal working hours, at weekends, or on statutory holidays:
 - “(ii) charges for reimbursement of travelling time and other expenses:
 - “(b) prescribe the amounts of the fees or charges, or the methods by which they are to be assessed or calculated:
 - “(c) specify the persons by whom, and to whom, any fees or charges, or both, are payable:
 - “(d) provide for the refund, waiver, or rebate, or enable the refund, waiver, or rebate, of any fee or charge, or both:
 - “(e) fix, or enable the fixing, of a date by which any fee or charge is to be paid:
 - “(f) provide a discount for early payment of any fee or charge or a penalty for late payment, or both:
 - “(g) prescribe different rates of fees or charges (or both), or different methods by which fees or charges (or both) are to be assessed, in respect of different classes of wine makers, exporters, persons, wines, or other matters.

“31A Incorporation of material by reference into regulations and notices

“(1) The following material may be incorporated by reference into any regulations or notice (both referred to in this section as **instruments**) made or given under this Act:

“(a) standards, requirements, or recommended practices published by or on behalf of any body or person in New Zealand or in any other country:

“(b) standards or requirements of international or national organisations:

“(c) standards or requirements of any country or jurisdiction:

“(d) any other material that, in the opinion of the Minister (or, as appropriate, the Director-General), is too large or impractical to be printed as part of the instrument concerned.

“(2) Any such material may be incorporated in an instrument in whole or in part, and either unmodified or with such additions, omissions, or variations as are specified in the instrument.

“(3) Any such material so incorporated by reference in an instrument is to be treated for all purposes as forming part of that instrument.

“(4) Every reference in an instrument to the current edition of any standard work of reference is, unless the instrument otherwise specifies, to be construed at any particular time as the latest edition of that work available at that time, together with any amendments, additions, and deletions made to or from it up to that time.

“(5) If any amendment to material incorporated by reference under this section (other than to any standard work of reference) is made, that amendment does not take effect until the date specified for that purpose by the Director-General by notification in the *Gazette*.

“(6) The Director-General must—

“(a) make available for inspection free of charge, at the head office of the Ministry, the head office of the Wine Institute, and at such other places as the Director-General determines as necessary or appropriate, copies of all material incorporated in an instrument by reference under this section; and

“(b) either make copies of such material available for purchase, at reasonable cost, or advise where copies of the material may be obtained.”

Legislative history

28 November 2002	Divided from Wine Bill (Bill 8-1) by Primary Production Committee
2 December 2002	Reported from Primary Production Committee (Bill 8-2A)
19 March 2003	Second reading
25 March 2003	Committee of the whole House
27 March 2003	Third reading
1 April 2003	Royal assent

This Act is administered in the Ministry of Agriculture and Forestry.
