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Wine Act 2003

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Note
Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

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

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1 Title

This Act is the Wine Act 2003.

Part 1
Preliminary provisions

2 Commencement

(1) This Act comes into force on 1 January 2004, except for sections 123(1) and 124(2).

(2) Section 123(1) comes into force on the close of 30 June 2005, or on such earlier date as the Governor-General may fix by Order in Council.

(3) Section 124(2) comes into force on the close of 30 June 2004.

Section 2(2): section 123(1) brought into force, on 1 April 2005, by the Wine Act Commencement Order 2005 (SR 2005/28).

3 Objects of Act

The objects of this Act are to—

(a) provide for the setting of standards for identity, truthfulness in labelling, and safety of wine:

(b) provide for the minimising and management of risks to human health arising from the making of wine and the ensuring of compliance with wine standards:

(c) facilitate the entry of wine into overseas markets by providing the controls and mechanisms needed to give and safeguard official assurances issued for the purpose of enabling entry into those markets:

(d) enable the setting of export eligibility requirements to safeguard the reputation of New Zealand wine in overseas markets:

(e) promote consultation with industry organisations on the regulation of the industry, as an aid to fostering efficiency and growth in the New Zealand wine industry:

(f) enable levies to be imposed on winemakers for payment to entities representing their interests for the funding of industry-good activities.

4 Interpretation

(1) In this Act, unless the context otherwise requires,—

commodity means any plant material or honey used for the making of wine

Director-General means the chief executive of the Ministry

export eligibility requirements means those requirements imposed on exports of any class, kind, or description of wine by regulations made under section 38

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

financial year means a period of 12 months beginning on 1 July in any year and ending on 30 June in the following year

fit for intended purpose, used in relation to wine, is described in subsection (2)

Food Act regime means the alternative regimes under the Food Act 1981 that consist of, or relate to,—

(a) Part 1A of that Act and food safety programmes:

(b) the Food Hygiene Regulations 1974

food safety programme means an appropriate food safety programme within the meaning of the Food Act 1981, being a programme whose adoption gives rise to an exemption from the Food Hygiene Regulations 1974 under Part 1A of that Act

fruit wine or vegetable wine, subject to subsection (3), means the product prepared from the complete or partial fermentation of any fruit, vegetables, grains, cereals, or preparations of fruit, vegetables, grains, or cereals, other than that produced solely from grapes

grape wine, subject to subsection (3), means the product of the complete or partial fermentation of fresh grapes, or a mixture of that product and products derived solely from grapes

hazard means a biological, chemical, or physical agent that—

(a) is in or has the potential to be in wine, or is or has the potential to affect the condition of wine; and

(b) leads or could lead to an adverse or injurious health effect on humans from consumption of wine

in writing means printed, typewritten, or otherwise visibly represented, copied, or reproduced, including by fax or email or other electronic means

industry organisation means, as appropriate, all or any of—

(a) the Wine Institute of New Zealand Inc:

(b) the New Zealand Fruit Wine and Cider Makers Association:

(c) the New Zealand Grape Growers Council Inc:

(d) any other body specified as an industry organisation for the purposes of this definition by the Minister by notice in the *Gazette*:

(e) the successors in title of any of those bodies

label, subject to subsection (3), means any tag, brand, mark, or statement in writing or any representation or design or de-

scriptive matter on or attached to or used in connection with or accompanying any wine

making, or **made**, in relation to wine, means any or every process or action from receipt of the commodity through to dispatch of the wine, including—

(a) the crushing or pressing of the commodity for juice:
(b) the fermentation of the commodity or juice into wine:
(c) any storage, blending, or mixing of a wine or wines:
(d) bottling or otherwise packaging wine:
(e) labelling of wine

marae includes the area of land on which all buildings such as wharenui (meeting house), wharekai (dining room), ablution blocks, and any other associated buildings are situated

mead, subject to subsection (3), means the product prepared from the complete or partial fermentation of honey

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

New Zealand food standard means a food standard issued under Part 2A of the Food Act 1981

official assurance has the meaning given by section 42

operator, in relation to a wine business, means the owner or other person in control of the business

place includes any building, conveyance, moveable facility, or structure; and includes any land where wine or commodities are produced

recognised agency, in relation to any function or activity, means a person or body recognised under section 69 for the purpose of performing that function or activity

recognised management plan verifier means a person currently recognised under section 70 as a wine standards management plan verifier

recognised person, in relation to any verification or other specialised function or activity, means a person recognised under

section 70 for the purpose of performing that function or activity

recognised verifying agency means a person or body currently recognised under section 69 as a wine standards management plan verifying agency

registered exporter means an exporter currently registered under section 49

registered wine standards management plan means a wine standards management plan that is currently registered under section 19

risk factors means—

(a) risks from false or misleading labelling:

(b) risks from hazards to human health

sell has the same meaning as trade

trade means sell for consumption or use; and includes—

(a) selling for resale (including as a constituent part of another product) for consumption or use:

(b) offering or attempting to sell, or receiving for sale, or having in possession or exposing for sale, or sending or delivering for sale, or causing or permitting to be sold, offered, or exposed for sale:

(c) barter:

(d) supplying a product under a contract, together with other goods or services or both, in consideration of an inclusive charge for the product and the other goods or services:

(e) offering as a public prize or reward, or giving away for the purpose of advertisement or in the furtherance of any trade or business:

(f) every other method of disposition for valuable consideration

verification includes the periodic checks carried out by recognised management plan verifiers to determine—

(a) the appropriateness of a wine standards management plan:

(b) whether operations that are subject to a wine standards management plan are in compliance with the requirements of the plan and of this Act:

(c) whether wine for whose export an official assurance is required has been produced or made in a way that meets the requirements for the official assurance

wine means any grape wine, fruit wine, vegetable wine, or mead; and—

(a) includes—
  (i) cider and perry:
  (ii) fortified wines such as sherry, port, and fruit or vegetable-based liqueurs; and
(b) to the extent specified in section 10(3) or section 12(4) or section 32 includes wine products; but
(c) does not include beer or spirits

wine business means a business undertaking that, for reward or for the purposes of trade,—

(a) makes wine; or
(b) exports wine

wine officer, or **officer**, means a person appointed as a wine officer under section 55; and includes the Director-General

wine product, subject to subsection (3), means a food (as defined in the Food Act 1981) containing no less than 700 ml/L of wine which has been formulated, processed, modified, or mixed with other foods such that it is not wine

wine standard, or **standard**, means a standard prescribed under subpart 2 of Part 2 that specifies criteria that must be met to determine fitness for its intended purpose of any class or description of wine

wine standards management plan has the meaning given by section 8, and, except in subpart 1 of Part 2, is to be taken to refer to a registered wine standards management plan

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

(2) In this Act, **fit for intended purpose**, used in relation to wine, means wine that has been made in accordance with the requirements of this Act and that meets any relevant wine standards and associated specifications set under subpart 2 of Part 2 and any relevant New Zealand food standards.

(3) The Governor-General may, by Order in Council, amend or substitute the definitions of fruit wine or vegetable wine, grape

wine, label, mead, and wine product to ensure consistency with New Zealand food standards.

(4) Nothing in the definitions of fruit wine or vegetable wine, grape wine, mead, or wine product prevents the addition of any foods, food additives, or processing aids to such products if that addition to the particular product is permitted under the Food Act 1981.

Application of Act generally

5 Scope of Act

(1) This Act applies to the making of all wine for reward or for the purposes of trade or export.

(2) This Act may also apply or be made to apply to wine products and producers of commodities from which wine is made, to the extent specified in sections 10 and 12.

(3) Classes, descriptions, and kinds of wine, commodities, winemakers, exporters, and operations may be excluded from the application of this Act to the extent exempted from all or any of its provisions by Order in Council under section 6.

6 Exemptions from application of Act

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, exempt any of the following from all or any of the provisions of this Act:

(a) any class, description, or kind of wine:

(b) any commodity or any class, description, or kind of commodity from which wine is made:

(c) any 1 or more classes or descriptions of winemakers or exporters of wine:

(d) any 1 or more classes or descriptions of operations, premises, or places in relation to the making or export of wine:

(e) any combination of the above.

(2) The Minister may not recommend the making of an order under this section unless satisfied, having regard to the matter to be exempted, that the risk to human health and to trade of providing the exemption is negligible.

(3) In determining whether or not to recommend the making of an order the Minister is to have regard to the following:
  (a) the desirability of maintaining consistency between New Zealand wine standards, New Zealand Food Standards, and any relevant standards, requirements, or recommended practices that are accepted internationally:
  (b) the desirability of maintaining consistency with New Zealand's international obligations:
  (c) the desirability of facilitating access to overseas markets:
  (d) the need to protect the health of consumers of wine:
  (e) the relative cost of having the exemption or not having it, who bears the cost, and the positive and negative impacts on New Zealand consumers:
  (f) such other matters as the Minister considers relevant.

(4) The Minister may not recommend the making of an order under this section unless satisfied that appropriate consultation has been carried out in accordance with section 115.

(5) An exemption under this section may have retrospective effect.

Part 2
Winemaking and export of wine

7 Outline of this Part

This Part provides for—
  (a) wine standards management plans, under which winemakers must operate, as a main means of—
    (i) ensuring that wine complies with appropriate standards and is safe for consumption; and
    (ii) facilitating exports of wine; and
  (b) the setting of wine standards and specifications that must be met by any wine intended for trade or export; and
  (c) requirements in relation to the export of wine, and the giving of official assurances where appropriate to meet overseas market access requirements.

Subpart 1—Wine standards management plans

8 What is a wine standards management plan?

(1) A wine standards management plan is a plan designed to identify, control, manage, and eliminate or minimise hazards and other risk factors in relation to the making of wine in order to ensure that the wine is fit for its intended purpose.

(2) A wine standards management plan may be individually created by the person or wine business to whom or which it is to apply, or it may be created by some other party but adopted and amended to suit the operations of the person or business concerned. It may also be based on a template, a model, or a code of practice, if in the view of the Director-General the template, model, or code of practice is valid and appropriate for the business concerned.

(3) A wine standards management plan can relate to any or all matters relating to the making of wine for trade or export.

(4) A wine standards management plan may also apply to 1 or more wine businesses in cases where the Director-General has given approval under section 15.

9 Who must have a wine standards management plan?

The following persons must operate under a registered wine standards management plan for their wine-related operations, unless exempted under section 6 or section 11:

(a) all winemakers:

(b) such other persons as may be specified by Order in Council under section 12 as requiring to operate under a wine standards management plan.

10 Winemakers with associated wine products or food business

(1) Winemakers who make wine products may, in respect of their wine product operations, either—

(a) include those operations in their registered wine standards management plan for their winemaking operations; or

(b) comply with the Food Act regime for their wine product operations.

(2) Winemakers who also make or retail food products must both—

(a) have a registered wine standards management plan for their winemaking operations; and

(b) comply with the Food Act regime in respect of their food product operations.

(3) Where wine product operations are included in a wine standards management plan under subsection (1), then, unless the context otherwise requires, all the provisions of this Act apply to the wine product concerned as if it were wine.

11 Limited exemption from requirement to have wine standards management plan

(1) The Director-General may, by notice under section 120, exempt in whole or in part any winemaker or person required under section 12 to have a wine standards management plan from the requirement to operate under a wine standards management plan—

(a) for the period specified in the notice; and

(b) on such conditions (if any) as may be specified in the notice.

(2) The Director-General may not grant an exemption under subsection (1) unless satisfied that, having regard if appropriate to the period of the exemption or the conditions imposed,—

(a) the risk to human health of providing the exemption is negligible; and

(b) the risk of damage to trade is also negligible.

(3) An exemption under subsection (1) may have retrospective effect.

12 Certain persons may be required to have wine standards management plan

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, require any 1 or more classes of the following categories of persons to have a wine

standards management plan in respect of the wine-related operations specified in the order:

(a) exporters of wine:

(b) transporters of commodities or wine:

(c) producers of commodities:

(d) persons manufacturing wine products.

(2) The persons to whom and operations to which the order applies may be defined by reference to—

(a) the class, kind, or description of commodity or wine or wine product produced:

(b) the intended purpose or destination of the commodity or wine or wine product in question:

(c) the type of operations or processes carried out in relation to the commodity or wine or wine product:

(d) the type of premises or place in which operations or processes are carried out in relation to the commodity or wine or wine product in question:

(e) any combination of the above.

(3) The Minister may not recommend the making of an order under this section unless—

(a) the Minister is satisfied that the order is necessary or desirable—

(i) in the interests of producing wine or wine product that is fit for its intended purpose; or

(ii) for the purpose of facilitating access to overseas markets; and

(b) there has been appropriate consultation on the subject matter of the order in accordance with section 115, except where the Minister considers the making of the order a matter of urgency in the public interest.

(4) Where an order under this section requires a wine standards management plan in respect of any specified operations, it may also, to ensure the appropriate application of any relevant provisions of this Act to the commodity or wine product or other matter concerned, specify that those provisions are to apply as if the commodity, wine product, or matter were wine, or otherwise make appropriate provision to ensure the application of this Act to the operations for which a registered wine stand-

ards management plan is required; and those provisions then apply accordingly.

13 Duties of operators of wine standards management plans

An operator of a wine standards management plan has the following duties:

(a) to ensure that the operations of the business subject to the plan do not contravene the relevant requirements of and under this Act, including the requirements set out in the plan:

(b) to ensure the plan is consistent with the requirements of regulations and notices in force from time to time under this Act:

(c) to adequately implement and resource all operations under the plan, including provision for the instruction, competency, and supervision of staff to ensure the making of wine that is fit for its intended purpose:

(d) to ensure that all operations under the plan are commensurate with the capability and the capacity of the premises or place, facilities, equipment, and staff to make wine that is fit for its intended purpose and, if applicable, complies with any export requirements under subpart 3 of Part 2:

(e) to give relevant recognised persons such freedom and access as will allow them to carry out their functions and activities under the Act, including verification functions and activities:

(f) to notify the Director-General, in advance where practicable, and otherwise as soon as possible, of any change in the operator's recognised verifying agency.

14 Contents of and requirements for wine standards management plans

(1) A wine standards management plan must—

(a) be in writing in a form acceptable to the Director-General:

(b) specify the name and address (including the electronic address, if available) of—

(i) the business operator whose plan it is; and

(ii) the business or businesses covered by the programme:

(c) identify—

(i) the wine being made; and

(ii) the premises or place to which the plan applies; and

(iii) any other business to which the plan applies (if it does not apply only to the business of the person applying for registration).

(2) A wine standards management plan must—

(a) set out the procedures the operator will use for identifying, controlling, managing, eliminating, or minimising risk factors:

(b) describe the steps the operator will take to confirm that the plan is working effectively:

(c) provide for appropriate corrective actions (including recall) to be undertaken where the wine may not be fit for its intended purpose:

(d) set out appropriate and auditable documentation and record keeping:

(e) as appropriate to the operations under the plan, contain the matters specified in, and otherwise comply with—

(i) any relevant standard or other requirement prescribed by regulations made under this Act, and any relevant New Zealand food standard:

(ii) any relevant specifications set by the Director-General under this Act (including location of reference material and documents recording specific procedures):

(f) cover all winemaking components and processes, and all premises and equipment:

(g) document all processes involved in the making of wine.

(3) In relation to hazards, a plan must demonstrate that the following matters have also been taken into account in its development:

(a) systematic identification of any hazards, and determination of the significance of those hazards, involved in the production of commodities and the making of wine:

(b) determination of the points at which the hazards of significance identified in paragraph (a) occur, and the processes or procedures to best control them:

(c) establishment of acceptable parameters of the processes or procedures at the points determined in paragraph (b):

(d) establishment of monitoring procedures to demonstrate control at the points determined in paragraph (b):

(e) identification of the action that will be taken if any parameters established for the plan are not achieved:

(f) establishment of procedures for the ongoing confirmation that the plan is effective in managing the hazards:

(g) appropriate and auditable documentation and record keeping.

(4) A proposed plan must also make appropriate provision for verification activities and the rights of recognised management plan verifiers, as specified by the Director-General.

15 Multi-business wine standards management plans

(1) A registered wine standards management plan may apply to more than 1 business, if the Director-General approves.

(2) The Director-General may approve one person's wine standards management plan applying to all or part of the business or businesses of 1 or more other persons if satisfied that—

(a) the plan is appropriate to the other businesses or part-businesses, as well as to the business of the person whose plan it is; and

(b) the registered operator of the plan will have sufficient control, authority, and accountability for all matters covered by the plan in relation to the other businesses or part-businesses subject to its coverage; and

(c) the applicant for the approval has obtained the consent or otherwise taken into account the views of any person whose business or part-business is to be covered by the plan.

(3) The approval may be given subject to conditions.

(4) Application for approval under this section must be made by the operator of the wine standards management plan, either at the time of application for its registration under section 18, or as an application for amendment under section 22(3).

Registration of wine standards management plans

16 Wine standards management plans must be registered

A person who is required to operate under a wine standards management plan must apply for registration of the plan in accordance with section 18.

17 Register of wine standards management plans

(1) The Director-General must keep and maintain a register of wine standards management plans that records every wine standards management plan registered under this Part.

(2) The purpose of the register is—

(a) to enable members of the public, including persons and businesses operating under this Act, to know what business operations are subject to wine standards management plans, and who is responsible for various functions under those plans; and

(b) to facilitate the ability of the Director-General to—

(i) ensure that all traded wine is fit for its intended purpose; and

(ii) advise winemakers and other persons required to have wine standards management plans under section 12 of overseas market access requirements, and of developments in market access issues; and

(iii) to safeguard official assurances for entry of wine into overseas markets, including in emergency situations; and

(c) to facilitate the compliance, audit, and other supporting and administrative functions of the Ministry under this Act.

(3) The register of wine standards management plans must contain the following particulars in respect of each plan registered:

(a) the name and address (including the electronic address, if available) of the winemaker or other business owner or operator whose plan it is:

(b) the name, or the position or designation, of the person who is responsible for the day-to-day management of

the plan, as nominated by the winemaker or other business owner or operator:

(c) the date on which the plan was registered, and the registration number or other unique identifier allocated to it:

(d) the types of wine (whether grape wine, fruit wine or vegetable wine, or other type of wine or wine product) to which the plan applies:

(e) the principal categories of winemaking and other operations carried out under the plan:

(f) the location and type of premises or place to which the plan applies:

(g) the name of the recognised verifying agency responsible for the verification function under the plan:

(h) the date (and period, if appropriate) of any suspension of operations under the plan or any deregistration or surrender of registration of the plan:

(i) a brief indication of the reason for any such suspension or deregistration:

(j) the date of the most recent amendment to the plan:

(k) such other particulars as may be prescribed by or under this Act.

(4) The Director-General must—

(a) keep the register open for public inspection, free of charge, at all reasonable hours at the head office of the Ministry and at such other places as the Director-General determines as necessary or appropriate; and

(b) supply to any person copies of all or part of the register on request and on payment of a reasonable charge for the production of the copy.

(5) The register may be kept in such manner as the Director-General thinks fit, including, either wholly or partly, by means of a device or facility—

(a) that records or stores information electronically or by other means; and

(b) that permits the information so recorded to be readily inspected or reproduced in usable form; and

(c) that permits the information in the register to be accessed by electronic means, including (without limitation) by means of remote log-on access.

18 Applications for registration of wine standards management plans

(1) An application for registration of a wine standards management plan must be made in writing in a form or manner approved by the Director-General, and be accompanied by—

(a) either—

(i) a copy of the wine standards management plan (or such greater number of copies as may be required by the Director-General); or

(ii) an outline of the contents of the wine standards management plan that complies with the requirements of the Director-General for those outlines; and

(b) a copy of a report of an independent evaluation, carried out not more than 6 months before the date of the application for registration, of the validity of the wine standards management plan, in terms of sections 8 and 14; and

(c) the name of the recognised verifying agency that has indicated it is prepared to undertake verification functions in respect of the plan; and

(d) such further information and other material (including declarations, where appropriate) as may be required by regulations made under this Act; and

(e) the prescribed fee (if any).

(1A) Despite the requirement in subsection (1)(b), the Director-General may waive or modify the requirement for an independent evaluation report where—

(a) a wine standards management plan is fully based on a template, model, or code of practice that the Director-General considers to be valid and appropriate for the business concerned in accordance with section 8(2); or

(b) a wine standards management plan is a multi-business wine standards management plan approved by the Director-General in accordance with section 15; or

(c) the risks to human health are negligible and the Director-General is satisfied that the nature of the business does not require an independent evaluation report to ensure validity in terms of sections 8 and 14.

(2) The Director-General may require an applicant to supply further information or other material before determining whether or not to register a wine standards management plan.

(3) If the information or material is not supplied within 6 months of the date of the request, or within such further time as the Director-General allows, the application for registration lapses.

Section 18(1A): inserted, on 15 December 2005, by section 3 of the Wine Amendment Act 2005 (2005 No 119).

19 Registration of wine standards management plans

(1) The Director-General must register a wine standards management plan submitted by an applicant if satisfied that—

(a) the content of the wine standards management plan—

(i) complies with the requirements imposed by or under this Act; and

(ii) ensures that, as far as practicable, the wine to be produced under the plan will be fit for its intended purpose; and

(b) the applicant is a fit and proper person to operate a wine business, taking into account whether the applicant or any directors or managers of the business concerned have been convicted, whether in New Zealand or overseas, of any offence relating to fraud or dishonesty, or relating to management control or business activities in respect of any wine business (whether in New Zealand or elsewhere); and

(c) the business, or its operator, is resident in New Zealand within the meaning of section OE 1 or section OE 2 of the Income Tax Act 1994.

(2) Registration may be subject to such reasonable conditions as the Director-General may specify, including conditions relating to the commencement of operations under the plan.

(3) The Director-General must, as soon as practicable after registering a wine standards management plan, supply the applicant with—

(a) a notice of registration; and

(b) a notice of any conditions imposed under subsection (2).

(4) If a person acting under the delegated authority of the Director-General imposes any conditions under subsection (2),

the applicant may seek a review of the imposition of those conditions under section 114.

(5) Registration of a wine standards management plan under this section continues in force until the plan is deregistered under section 25 or its registration is surrendered under section 27.

20 Refusal to register wine standards management plan

(1) If, after considering an application and any further information or material supplied under section 18, the Director-General proposes to refuse to register a wine standards management plan, the Director-General must give the applicant—

(a) a notice containing such particulars as will clearly inform the applicant of the grounds on which the Director-General proposes to refuse to register the plan; and

(b) a reasonable opportunity to make written submissions or be heard in respect of the matter.

(2) Where the Director-General finally determines to refuse to register a plan, the Director-General must as soon as practicable notify that fact to the applicant in writing, giving reasons.

(3) If a person acting under the delegated authority of the Director-General declines to register a wine standards management plan, the applicant may seek a review of that decision under section 114.

21 Registration may not be transferred

(1) The registration of a wine standards management plan applies only to the particular operator and premises or place specified in the register, and may not be transferred to a different operator or premises or place.

(2) Nothing in this section prevents—

(a) the registration in the name of a new operator, or in relation to new premises or a new place, of a wine standards management plan in substantially identical terms to those that applied to a former operator or premises or place; or

(b) the extension of a plan to the business or part-business of another person in accordance with an approval given under section 15.

(3) For the purposes of this section, the following circumstances will, except as otherwise specified by the Director-General by notice under section 120, be treated as involving a change in the operator of a wine standards management plan, and so require registration of a new plan rather than amendment of an existing registered plan:

(a) a change in the members of a partnership (but not in members' respective shares in the partnership):

(b) the death, bankruptcy, receivership, or liquidation of the operator of the plan.

22 Significant amendment of wine standards management plan

(1) The operator of a registered wine standards management plan must amend that plan, and apply for registration of the amendment, where any change, event, or other matter means that the plan—

(a) is no longer appropriate, or will no longer be appropriate, to the wine, processes, or premises or place covered by the plan; or

(b) otherwise impacts, or will impact, on the fitness for its intended purpose of the wine concerned or the content of the wine standards management plan.

(2) The operator must amend the plan, and apply for registration of the amendment, before the event where the operator knows of the change, event, or other matter in advance, and in all other cases must do so without unreasonable delay.

(3) The operator of a wine standards management plan may at any time apply to the Director-General, in a manner approved by the Director-General and on payment of the prescribed fee (if any), for registration of an amendment to the plan.

(4) As soon as practicable after determining to register an amendment, the Director-General must—

(a) notify the applicant in writing accordingly; and

(b) where the amendment relates to future events or matters, specify the date or occasion on which the amendment takes effect or will apply; and

(c) supply to both the applicant and the appropriate recognised verifying agency a certified copy of the amendment (or, where appropriate, of a redraft of the relevant part of the plan that incorporates the amendment); and

(d) make an appropriate entry on the register of wine standards management plans.

(5) If the Director-General proposes to refuse to register an amendment, the Director-General must give the applicant—

(a) a notice containing such particulars as will clearly inform the applicant of the grounds on which the Director-General proposes to refuse to register the amendment; and

(b) a reasonable opportunity to make written submissions or be heard in respect of the matter.

(6) Where the Director-General finally determines to refuse to register an amendment, the Director-General must as soon as practicable notify that fact to the applicant in writing, giving reasons.

(7) If a person acting under the delegated authority of the Director-General refuses to register an amendment, the applicant may seek a review of that decision under section 114.

(8) The Director-General may, by notice under section 120, specify matters in relation to amendments to wine standards management plans, including—

(a) specifying the kinds of amendments that require registration and those that do not; and

(b) specifying any amount of notice that may be required in respect of events or matters of a kind known to the operator in advance that will require an amendment to a registered wine standards management plan.

23 Updates of minor amendments to wine standards management plans

(1) For the purpose of ensuring that a registered wine standards management plan continues to comply with the requirements of section 14, every operator of a wine standards management

plan must from time to time notify the Director-General of all amendments to the wine standards management plan that—

(a) are of such a nature as not to require registration under section 22; and

(b) have not been previously notified to the Director-General under this section.

(2) Notification of the amendments must—

(a) be made in a manner approved by the Director-General; and

(b) be made at such intervals as may be prescribed by regulations made under this Act, or otherwise by notice by the Director-General under section 120; and

(c) contain such details and be accompanied by such other material (including declarations and evaluation reports, if required) as may be prescribed by regulations made under this Act or by notice by the Director-General under section 120; and

(d) be accompanied by the prescribed fee (if any).

(3) On being satisfied that the requirements of this section have been complied with, and that the registered wine standards management plan concerned continues to comply with the requirements of section 14, the Director-General must register the fact that the plan has been updated under this section.

(4) The Director-General may, by notice under section 120, specify matters for the purposes of this section.

24 Suspension of operations under registered wine standards management plan

(1) The Director-General may at any time suspend any or all operations under a registered wine standards management plan for a period of up to 3 months if the Director-General has reasonable grounds to believe that—

(a) the plan may not be or is no longer effective; or

(b) the wine made under the plan does not meet or no longer meets the requirements of this Act.

(2) The Director-General may impose conditions and requirements in respect of the implementation and operation of a suspension under this section.

(3) Where the Director-General suspends all or any operations under a wine standards management plan, he or she must give written notice of that fact to the operator of the plan, specifying—

(a) the reason for the suspension; and

(b) the period of the suspension; and

(c) the date on which or time at which it commences (which may not be earlier than the date or time of notification); and

(d) the operations to which the suspension applies; and

(e) any conditions or requirements in relation to the suspension.

(4) If the Director-General considers it necessary in the circumstances, and after having notified the operator of the proposed extension and the reasons for it, and having given the operator a reasonable opportunity to be heard, the period of suspension may be extended once for such further period not exceeding 3 months as the Director-General notifies to the operator in writing before the expiry of the original suspension.

(5) The Director-General must notify the appropriate recognised verifying agency of a suspension under this section.

(6) The Director-General may notify any suspension under this section in the *Gazette*.

(7) A suspension under this section does not affect any other actions that the Director-General may take under this Act.

(8) Where operations are suspended under this section, the Director-General may direct the operator or person in charge to take action appropriate to deal with any affected wine, and may exercise any of his or her other powers.

(9) If a person acting under the delegated authority of the Director-General suspends any operations under this section, the operator of the wine standards management plan or of the business concerned may seek a review of the suspension under section 114.

25 Deregistration of wine standards management plan

(1) The Director-General may at any time remove a wine standards management plan from the register if the Director-General is satisfied that—

(a) the Director-General would be justified under section 24 in suspending operations under the plan but, in light of repeated suspensions of operations under the wine standards management plan in the past under that section, it would be more appropriate to deregister the plan; or

(b) there is or has been such a serious failure of operations or other matters under the plan as to cast doubt on the fitness for its intended purpose of the wine produced under the plan; or

(c) whether by reason of the passage of time or changing circumstances, or for any other reason, the wine standards management plan no longer ensures the fitness for its intended purpose of the wine under the plan; or

(d) the operator of the plan is no longer a fit and proper person to operate or be responsible for the operation of a wine business, taking into account any conviction of the operator or any director or manager of the wine business concerned, whether in New Zealand or overseas, of any offence relating to fraud or dishonesty, or relating to management control or business activities in respect of businesses of a kind (whether in New Zealand or elsewhere) that are regulated under this Act; or

(e) if the business ceases to be a wine business.

(2) The Director-General may not deregister a wine standards management plan under this section unless he or she has first—

(a) notified the operator of the plan (whether orally or in writing) of the intention to deregister and the reason for deregistration; and

(b) given the operator an opportunity to be heard.

(3) Where the Director-General finally determines to deregister a wine standards management plan, the Director-General must—

(a) give written notice of that fact to the operator of the plan, giving reasons and specifying the date on which the deregistration takes effect (which may not be earlier than the date of notification); and

(b) notify the appropriate recognised verifying agency of that fact.

(4) Where a wine standards management plan is deregistered under this section, the Director-General may direct the operator or person in charge to take action appropriate to deal with any affected wine and may exercise any of his or her other powers under section 59.

(5) The Director-General may notify any deregistration under this section in the *Gazette*.

(6) The deregistration of a wine standards management plan does not affect any other actions that the Director-General may take under this Act.

(7) If a person acting under the delegated authority of the Director-General deregisters a wine standards management plan under this section, the operator of the wine standards management plan or of the wine business concerned may seek a review of the deregistration under section 114.

26 Removal of wine business from coverage of wider wine standards management plan

(1) The Director-General may at any time remove any wine business from the coverage of a registered wine standards management plan that applies to 2 or more comparable businesses if the Director-General is satisfied that deregistration of the plan would be appropriate under section 25(1) if the business were the only one operating under the plan.

(2) Subsections (2) to (7) of section 25 apply in relation to the removal of the business from the coverage of the wine standards management plan as if references in those subsections to deregistration of the plan were references to removal from the coverage of the plan.

27 Surrender of registration

(1) The operator of a registered wine standards management plan may at any time surrender registration of the plan by notice in writing to the Director-General.

(2) Where the operator or wine business concerned ceases to operate as a wine business, that operator or wine business (or, where appropriate, the liquidator, receiver, executor, or other successor in title of the operator) must, within 20 working days of so ceasing,—

(a) notify the Director-General in writing of that fact; and

(b) surrender the notice of registration to the Director-General; and

(c) notify the appropriate recognised verifying agency of that fact.

(3) At the same time as notification under subsection (1) or subsection (2), the operator or other relevant person must also notify the Director-General of how it is proposed to deal with any remaining wine covered by the wine standards management plan.

(4) The Director-General may approve or agree to any such proposal, but may also, if appropriate, exercise any of his or her powers under section 59.

(5) On being notified of a surrender by an operator of a wine standards management plan under this section,—

(a) the Director-General must record the surrender on the appropriate register; and

(b) the surrender takes effect from the date stated in the register.

Miscellaneous matters

28 Director-General to recognise agencies and persons to perform verification functions in respect of wine standards management plans

(1) For the purposes of this Part, the Director-General must, in accordance with sections 69 to 82,—

(a) recognise persons and bodies as agencies who may be engaged to be responsible for the performance of verifi-

cation functions and activities in relation to wine standards management plans; and

(b) recognise individuals as persons who may undertake the performance of verification functions and activities in relation to wine standards management plans.

(2) The Director-General may, whether generally or in any particular case or class of case, by notice under section 120, require any recognised verifying agency to notify the Director-General of the termination of any contractual arrangement with the operator of a wine standards management plan for the provision of verification functions and activities.

(3) In any such case, the recognised verifying agency must notify the Director-General in writing of the termination as soon as practicable, and in no case later than 7 days after its occurrence.

29 Wine standards management plan in conflict with regulations or notices

If there is any conflict between the requirements of a registered wine standards management plan and those of any regulations or notices made under this Act, whether by reason of a failure to amend or update the plan to reflect any new requirements or otherwise, the requirements of the regulations or notices prevail.

Subpart 2—Wine standards and specifications

30 Outline of subpart 2

This subpart provides for—

(a) the setting of standards that must be met by any wine intended for trade or export; and

(b) the setting of specifications that may be necessary or desirable to enable those standards to be met.

31 Application of standards and specifications

Standards and specifications set under this subpart may apply in respect of any class, kind, or description of wine, person or business, process or operation, equipment or other

thing, premises or place, or area, and may apply regardless of whether or not a wine standards management plan is in place or is required in respect of the relevant wine, person or business, process or operation, premises or place, or area.

32 Application to wine products

Standards and specifications set under this subpart may apply to wine products that are made or required to be made under a registered wine standards management plan pursuant to section 10(1)(a) or section 12 as if they were wine, and, for this purpose, in this subpart **wine** includes wine products.

33 Regulations may prescribe standards

(1) Regulations may be made under section 119, on the recommendation of the Minister, that prescribe—

(a) standards in relation to wine identity and label integrity:

(b) safety and hygiene standards for wine.

(2) Without limiting the generality of subsection (1), standards may be prescribed in relation to the following matters:

(a) the identification and labelling of wine, including prescribing minimum percentages of inputs required to label or identify wine in terms of its vintage, variety, and country or area of origin:

(b) the keeping of records and the provision of returns to the Director-General in relation to wine and the making of wine, as a means of ensuring the truthfulness and integrity of labelling of wine, and the safety of wine:

(c) the imposition of prohibitions, limitations, or requirements in relation to hazards or substances in a wine and the hygiene of all materials, substances, and equipment used in making wine.

(3) A standard may authorise or provide for matters of detail to be specified by the Director-General.

(4) A standard may apply generally or in respect of 1 or more of the following:

(a) any specified wine, person or business, activity, or related matter or thing:

(b) any specified class or classes of wine, person or business, activity, or related matter or thing.

(5) Without limiting the generality of subsection (4), a class of wine, person or business, activity, or related matter or thing may be defined by reference to—
  (a) the class, kind, or description of wine; or
  (b) a particular variety or blend of varieties of commodity; or
  (c) the premises or place, area, or locality in which the relevant wine is made or dealt with, or from which its components or other additives are derived; or
  (d) any other relevant factors.

(6) No standard may be prescribed that conflicts with any New Zealand food standard.

(7) No prescribed standard may be held invalid merely because it—
  (a) confers any discretion on, or allows any matter to be determined or approved by, the Minister, the Director-General, or any wine officer; or
  (b) allows the Minister, the Director-General, or any other person to impose requirements as to the performance of any activities.

34 Prerequisites for prescribing standards

(1) In recommending the prescribing of standards under section 33, the Minister must have regard to—
  (a) the desirability of maintaining consistency between New Zealand wine standards and any relevant standards, requirements, or recommended practices that apply or are accepted internationally:
  (b) the desirability of maintaining consistency with New Zealand's international obligations:
  (c) the desirability of facilitating access to overseas markets:
  (d) the need to protect the health of consumers of wine:
  (e) such other matters as the Minister considers relevant.

(2) The Minister may not recommend the prescribing of any wine standard unless the Minister is satisfied that appropriate consultation has been carried out in accordance with section 115.

35 Director-General may issue specifications supplementary to wine standards

(1) The Director-General may from time to time, by notice under section 120, set specifications and other detailed requirements that—

(a) are specified or contemplated by or necessary to give effect to any prescribed standard; or

(b) are necessary or desirable to amplify the manner in which any such standard may or must be achieved.

(2) The Director-General may set specifications under this section only after having regard to the matters specified in section 34(1) and after appropriate consultation carried out in accordance with section 115.

Subpart 3—Export of wine

36 Object of subpart 3

The object of this subpart is to facilitate the access of wine to overseas markets for New Zealand exporters by—

(a) providing that the requirements of foreign governments, being requirements recognised by New Zealand, are available to, and met by, exporters and others; and

(b) providing for requirements and systems to be satisfied and maintained to enable confidence in the issuing of assurances that are required by foreign governments for wine; and

(c) providing for the setting of export eligibility requirements for wine, including processes for demonstrating compliance with those requirements in order to ensure that the reputation of New Zealand wine is not prejudiced; and

(d) in the case of wine for which no export eligibility requirements are set, providing for the registration of exporters of that wine.

37 Prerequisites for export

(1) No person may export wine from New Zealand unless—

(a) in the case of wine that requires an official assurance that the wine meets relevant overseas market access

requirements notified or made available under section 41, the appropriate official assurance has been obtained; and

(b) either—

(i) in the case of wine to which export eligibility requirements set under section 38 apply, compliance with those requirements has been demonstrated; or

(ii) in the case of wine to which export eligibility requirements do not apply, the person is registered as an exporter under section 49.

(2) Subsection (1) does not apply to any consignment of wine to the extent it is exempted from the relevant requirements under section 39 or under regulations made under this Act.

38 Export eligibility requirements

(1) The purpose of export eligibility requirements is to protect the reputation of New Zealand wine.

(2) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations setting out requirements that must be met for wine to be eligible for export from New Zealand.

(3) The export eligibility requirements may apply to all wines, or to 1 or more classes, kinds, or descriptions of wine.

(4) Without limiting the generality of subsection (2), the regulations setting export eligibility requirements may—

(a) prohibit the export of wine with an obvious fault (whether due to oxidation, tainting with extraneous flavours, or other fault):

(b) prescribe processes for demonstrating compliance with the export eligibility requirements, whether by way of analysis or assessment of samples or certification by recognised agencies or recognised persons or otherwise:

(c) allow for matters of detail to be specified by notice under section 120.

(5) The Minister may recommend the making of regulations setting export eligibility requirements under this section only after appropriate consultation in accordance with section 115.

(6) The Director-General may issue an export eligibility certificate for any wine if satisfied that the relevant export eligibility requirements have been met for that wine.

39 Exemption of certain consignments

(1) The Director-General may, by notice under section 120, exempt from all or any of the requirements of this subpart any particular consignment or wine or person, or any particular class or description of consignments or wine or persons, if the Director-General is satisfied that the consignment or wine to be exported is—

(a) to be used for the purposes of research or development; or

(b) to be used as a trade sample or otherwise to assess any overseas market for the initial development of that market; or

(c) for the personal use or other non-commercial use of the person travelling with the consignment; or

(d) wine for consumption during transit as a passenger or crew by sea or air on a vessel or aircraft leaving New Zealand; or

(e) of a kind that may be exempted by the Director-General in accordance with any order or regulations made under this Act.

(2) Regulations made under section 119 may—

(a) exempt from all or any of the requirements of this subpart any class or description of consignments or wine or persons, having regard to the matters specified in subsection (1)(a) to (d):

(b) authorise the Director-General to grant individual exemptions in accordance with any conditions set out in the regulations.

(3) An exemption under this section is subject to any conditions set out in the notice or regulations.

40 Duties of exporters

It is the duty of every exporter of wine to which this subpart applies—

(a) to ensure that their operations as an exporter do not contravene any relevant requirement of or under this Act; and

(b) to export only wine that meets—

(i) the relevant standards and specifications; and

(ii) the relevant overseas market access requirements notified or made available by the Director-General under section 41; and

(c) to notify the Director-General as soon as possible, and in any case not later than 24 hours after the event or first knowledge of the event, of the event and what actions (if any) have been taken in respect of the event in any case where wine exported by the exporter—

(i) is not fit, or is no longer fit, for its intended purpose; or

(ii) is refused entry by the foreign government concerned; or

(iii) does not meet or no longer meets the relevant overseas market access requirements as notified or made available by the Director-General under section 41; or

(iv) does not have, or no longer has, the required official assurances; and

(d) to maintain procedures and processes to demonstrate that the record-keeping requirements of and under this Act in relation to the provenance and processing of the wine exported by the exporter are being complied with; and

(e) in the case where the wine is subject to export eligibility requirements, to ensure that they only export wine that has been shown to comply with those requirements.

Market access requirements and official assurances to foreign governments

41 Director-General to notify or make available access requirements for overseas markets

(1) The Director-General must—

(a) either notify or ensure that there is made available to exporters and winemakers known to the Director-General any particular access requirements for overseas markets that New Zealand has recognised; and

(b) make those requirements available for inspection free of charge, or for purchase at reasonable cost, to exporters and winemakers.

(2) The Director-General may, where the Director-General considers it necessary or desirable, by notice under section 120, issue specifications that set out the manner in which the access requirements may or must be met, and must notify or make the specifications available in the same way as requirements are notified or made available under subsection (1).

(3) Nothing in subsection (1) prevents the Director-General from—

(a) charging for access to any website, or for 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.

42 Director-General may issue official assurances

(1) For the purposes of meeting the overseas market access requirements of any foreign government that are notified or made available by the Director-General under section 41 in respect of any wine to be exported, the Director-General, or a person authorised by the Director-General under section 46, may, in appropriate cases, issue an official assurance in respect of that wine if satisfied that the relevant requirements of the importing country have been met.

(2) Without limiting the matters to which an official assurance may apply, an official assurance is a statement to a foreign government, or an agent of a foreign government, attesting that, as appropriate, any 1 or more of the following applies in respect of any wine:
   (a) any specified process has been completed under this Act with respect to the wine concerned:
   (b) the wine concerned meets the standards and specifications set under subpart 2 of Part 2 and any relevant New Zealand food standards for that wine:
   (c) any overseas market access requirements of any foreign government that are recognised by New Zealand, and that are stated in the assurance, have been met by the system under which the wine was made:
   (d) the situation in New Zealand, in relation to any matter concerning wine, is as stated in the assurance.

(3) An official assurance is not a guarantee that the contents of all or any of a particular consignment of wine to which it relates—
   (a) necessarily meet the commercial requirements of the importer; or
   (b) are fit for the intended purpose of the wine no matter what the status or description of the consumer, or what has happened to the consignment since it left New Zealand; or
   (c) are fit for a purpose other than that for which they were intended.

(4) 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.

43 Form and content of official assurance

(1) An official assurance may be in the form of a certificate or declaration or in such other form as may be determined by the Director-General.

(2) An official assurance may relate to—
   (a) 1 or more consignments of wine; or
   (b) 1 or more makers or exporters of wine; or
   (c) 1 or more export destinations; or

(d) any combination of the above.

(3) An official assurance may be communicated to its appropriate destination by writing, fax, electronic means, or any other form of communication that is accurate, clear, and verifiable.

(4) The Director-General may issue notices under section 120 that set out requirements and procedures for the issue and control of official assurances.

44 Obtaining of official assurance

(1) A person who wishes to obtain an official assurance in respect of any wine for export may apply in a manner approved by the Director-General, and must—

(a) supply such information as is required; and

(b) pay any relevant fee.

(2) The Director-General must not issue an official assurance unless satisfied that the information obtained from the applicant justifies the giving of the assurance.

45 Official assurance may be withdrawn, and reissued

(1) An official assurance may be withdrawn by the Director-General or other authorised person if the Director-General or person is satisfied that—

(a) the assurance was incorrectly or inappropriately given; or

(b) events or circumstances occurring since the assurance was given mean that it no longer holds true, or is misleading.

(2) The Director-General or person authorised by the Director-General may, on application in a manner approved by the Director-General, and on payment of any fee required under subpart 2 of Part 3, reissue the official assurance (with any modifications, if appropriate) as a new official assurance.

46 Persons who may be authorised to issue official assurances

The Director-General may designate 1 or more persons employed within the Ministry as authorised persons who may issue official assurances for the purposes of this subpart.

Registration of exporters

47 Register of exporters

(1) The Director-General must keep and maintain a register of exporters that records persons authorised under this subpart to export wine to which the export eligibility requirements do not apply.

(2) The purpose of the register is—
- (a) to enable members of the public, including persons and businesses operating under this Act, to know who is authorised to export wine of a kind that is not subject to export eligibility requirements; and
- (b) to facilitate the ability of the Director-General to—
  - (i) ensure that all exported wine is fit for its intended purpose:
  - (ii) advise exporters of overseas market access requirements, and of developments in market access issues:
  - (iii) to safeguard official assurances for entry of wine into overseas markets, including in emergency situations; and
- (c) to facilitate the compliance, audit, and other supporting and administrative functions of the Ministry under this Act.

(3) The register of exporters must contain the following particulars in relation to each exporter:
- (a) the name and address (including the electronic address, if available) of—
  - (i) the exporter; and
  - (ii) if appropriate, the exporter's New Zealand agent:
- (b) the date on which the exporter was registered, and the date of expiry of that registration:
- (c) the date of any deregistration under section 52:
- (d) such other particulars as may be prescribed by or under this Act.

(4) The Director-General must—
- (a) keep the register open for public inspection, free of charge, at all reasonable hours at the head office of the Ministry and at such other places as the Director-General determines as necessary or appropriate; and

(b) supply to any person copies of all or part of the register on request and on payment of a reasonable charge for the production of the copy.

(5) The register may be kept in such manner as the Director-General thinks fit, including, either wholly or partly, by means of a device or facility—

(a) that records or stores information electronically or by other means; and

(b) that permits the information so recorded to be readily inspected or reproduced in usable form; and

(c) that permits the information in the register to be accessed by electronic means, including (without limitation) by means of remote log-on access.

48 Applications for registration as exporter

(1) A person who intends to export any wine (other than wine to which export eligibility requirements apply, or wine exempted under section 39 or by regulations under this Act) must apply to the Director-General, in a manner approved by the Director-General, for registration on the register of exporters.

(2) On receipt of a properly made application accompanied by the prescribed fee (if any), the Director-General must register the applicant as an exporter unless the Director-General considers that—

(a) the applicant is not a fit and proper person to be registered as an exporter, having regard to any conviction of the applicant or any director or manager of the applicant, whether in New Zealand or overseas, for any offence relating to fraud or dishonesty, or relating to management control or business activities in respect of wine businesses (whether in New Zealand or elsewhere); or

(b) there has in the past been a serious or repeated failure by the applicant to comply with duties of the type specified in section 40; or

(c) there are other good grounds for considering that the applicant is likely in the future to fail to comply with the duties specified in section 40; or

(d) subsection (3) applies to disqualify the person.

(3) No person may be registered as an exporter unless—

(a) they are a New Zealand resident within the meaning of section OE 1 or section OE 2 of the Income Tax Act 1994; or

(b) they have an agent who is a New Zealand resident within the meaning of those sections.

(4) For the purpose of assessing the matters specified in subsection (2), the Director-General may require an applicant to supply information additional to that contained in the application.

(5) If the applicant fails to supply the information within 3 months after the request, or within such further time as the Director-General may allow, the application lapses.

49 Registration as exporter

Where the Director-General determines to register an applicant as an exporter, the Director-General must—

(a) register the person as an exporter on the register, showing the date of registration; and

(b) notify the person in writing accordingly.

50 Refusal to register exporter

(1) If the Director-General proposes to refuse to register a person as an exporter, the Director-General must give the applicant—

(a) a notice containing such particulars as will clearly inform the applicant of the substance of the grounds on which the Director-General proposes to refuse to register the applicant; and

(b) a copy of any information on which the Director-General relies in proposing to refuse to register the applicant; and

(c) a reasonable opportunity to make written submissions or be heard in respect of the matter.

(2) Where the Director-General finally determines to refuse to register a person as an exporter, the Director-General must as soon as practicable notify the person, in writing, of—

(a) the decision; and

(b) the reasons for the decision, and the facts or assumptions on which it is based.

51 Registration fee payable

(1) Every registered exporter is liable to pay, either annually or at such greater interval as may be prescribed, the prescribed fee (if any) in respect of their confirmed registration.

(2) Any failure to pay the fee by the due date that persists for more than 20 working days may result in deregistration under section 52.

52 Deregistration of exporters

(1) The Director-General may at any time remove a person from the register of exporters if satisfied that—

- (a) there has been a serious or repeated failure by the registered exporter to comply with the duties specified in section 40; or
- (b) the person is disqualified from being registered as an exporter by virtue of section 48, or is not a fit and proper person to be registered as an exporter having regard to any conviction of a kind referred to in section 48(2) that—
  - (i) arose after the person's registration as an exporter; or
  - (ii) first came to the attention of the Director-General after the person's registration as an exporter; or
- (c) any failure to pay the annual fee or other fee prescribed under section 51 by the due date has persisted for more than 20 working days.

(2) Before removing a person from the register, the Director-General must—

- (a) notify the person in writing of his or her intention, giving the reasons for that intention and the facts and assumptions on which it is based; and
- (b) give the person a reasonable opportunity, within the time specified in the written notice, to provide evidence, information, and submissions as to why the person should not be removed from the register.

(3) Where the Director-General considers it urgently necessary in the interests of human health, or the integrity or reputation of New Zealand exports,—

(a) the Director-General may direct the exporter to suspend all export operations, or such operations as the Director-General may specify, pending a final determination as to whether the exporter should be deregistered, and may also give such directions under section 59 as appear to the Director-General to be reasonable in relation to any wine under the control of the exporter at the time the direction is given; and

(b) any such direction takes effect from the date of the notification under subsection (2), or such later date as the Director-General specifies; and

(c) the exporter must comply with the direction.

(4) After considering the material (if any) supplied by a person under subsection (2)(b), the Director-General must—

(a) make a final decision as to whether or not to remove the person from the register; and

(b) as soon as practicable, notify the person of the decision in writing, giving reasons and the facts or assumptions on which the decision is based in the case of an unfavourable decision.

53 Surrender of registration

(1) A registered exporter may at any time surrender registration by notice in writing to the Director-General.

(2) The Director-General must record the surrender on the register of exporters, and the surrender takes effect from the date stated in the register.

54 Refusal to register or decision to deregister may be reviewed in certain cases

If a person acting under the delegated authority of the Director-General refuses an application to register a person as an exporter, or deregisters the person, the person may seek a review of that decision under section 114.

Part 3
Officers, cost recovery, etc

Subpart 1—Officers, powers, and persons with specialist functions

Appointment of officers

55 Wine officers

(1) The Director-General may from time to time appoint persons as wine officers for the purposes of this Act.

(2) Persons appointed under subsection (1) must be employed under the State Sector Act 1988.

(3) A wine officer may be authorised, on his or her appointment, to exercise and perform all of the powers and functions conferred on wine officers under this Act, or only those powers and functions specified in the officer's instrument of appointment or subsequent written notice from the Director-General to the officer.

Powers of Director-General

56 Director-General may issue notices

The Director-General may from time to time issue notices as specified in section 120.

57 Director-General may give directions

(1) The Director-General may, by notice in writing, give directions to any or all wine officers, recognised persons, or recognised agencies as to the exercise of their functions under this Act.

(2) The Director-General may, by notice in writing, give such directions to the following persons as may be appropriate and reasonable concerning the taking of preventative or corrective action in respect of wine that the Director-General cannot be reasonably satisfied will meet the requirements of this Act in the absence of such action:

(a) any operator or person in charge of a wine standards management plan:

(b) any operator or person in charge of a wine business subject to this Act:

(c) any exporter:

(d) any person in control of, or reasonably appearing to be in control of, any wine, including a transporter, retailer, or storeperson:

(e) any producer or transporter of a commodity.

58 Recall of wine

(1) The Director-General may, for the purpose of examining, reclassifying, rectifying, or disposing of any wine that is not fit for its intended purpose or that he or she has good reason to believe is not fit for its intended purpose, or that is mislabelled or incorrectly identified, issue a notice in writing directing the recall of that wine and requiring the wine to be taken to a place specified in the notice, or a place agreed to between the Director-General and the recipient of the notice.

(2) A notice under this section (a **recall notice**) may also specify any requirements that may be imposed under section 59.

(3) A recall notice may be directed to any 1 or more persons who own or have control over the wine in question.

(4) On receipt of a recall notice, the person on whom it is served must as soon as practicable—

(a) advise the Director-General of the details of the manner in which the notice is to be complied with; and

(b) give written notice to the Director-General when the recall, and any specified requirement associated with the recall, has been completed.

(5) If a person who owns or has control of the wine fails or refuses to comply with a recall notice, the Director-General may—

(a) take any reasonable steps necessary to ensure control of the wine (including entry by wine officers into premises under a warrant); and

(b) recover the costs and expenses reasonably incurred in assuming control of the wine as a debt due from that person.

(6) Nothing in this section affects the power of the Director-General to issue a statement of a kind referred to in section 60.

59 Power to direct disposal, etc, of wine in certain circumstances

(1) This section applies in relation to a situation where the Director-General—

(a) suspends operations under a registered wine standards management plan in accordance with section 24; or

(b) deregisters a wine standards management plan in accordance with section 25; or

(c) removes a wine business from the coverage of a registered wine standards management plan under section 26; or

(d) accepts a surrender of registration under section 27, in circumstances where no agreement has been reached on how it is proposed to deal with any remaining wine covered by the wine standards management plan; or

(e) suspends export operations of an exporter in accordance with section 52(3); or

(f) has reasonable grounds to believe that a person who is required to be registered as an exporter under subpart 3 of Part 2 is exporting, has exported, or is about to export wine without being so registered; or

(g) has reasonable grounds to believe that a person is exporting, has exported, or is about to export wine that does not meet relevant export eligibility requirements.

(2) In a situation to which this section applies, the Director-General may, whether immediately before, at the same time as, or after taking any relevant action referred to in subsection (1),—

(a) give directions to the relevant operator, person in charge (or person who reasonably appears to be in charge), owner of the wine, or exporter, or any of them, on the handling, storage, further processing, transport, identification, classification, reclassification, verification, condemnation, destruction, or disposal of the wine affected by the deregistration, surrender, suspension, or failure to register; and

(b) if the directions are not complied with, undertake the appropriate directed activities himself or herself (through wine officers or other Ministry officers or employees) in relation to the affected wine.

(3) The Director-General may recover all actual and reasonable costs of any activities undertaken under subsection (2)(b) from the person to whom the direction in question was given under subsection (2)(a) and who failed to comply with the direction.

60 Statements by Director-General

(1) The Director-General may from time to time, for the purpose of protecting or informing the public, publish under this section statements relating to any wine.

(2) The Director-General is protected from civil liability for a statement published under this section, unless the statement was not made in good faith or was made recklessly.

61 Delegations by Director-General

The Director-General may delegate under section 41 of the State Sector Act 1988 all or any of his or her functions, powers, or duties under this Act, except the power to issue statements under section 60.

Powers of wine officers

62 Power of entry

(1) A wine officer may at any reasonable time, for the purpose of determining whether or not any person is complying with this Act, or any requirements made under this Act, or whether any wine is in compliance with the requirements of this Act or any requirements made under this Act, without a warrant enter any place (other than a dwelling house or marae) at, in, or from which—

(a) any winemaker operates, or any business that is subject to a wine standards management plan or that processes or sells food that is or includes wine, is operated; or

(b) any exporter operates; or

(c) any recognised agency or recognised person operates; or

(d) the books or records, or other business information kept in writing or electronic form, of any such winemaker, wine business, exporter, recognised agency, or recognised person, are kept.

(2) A wine officer may, pursuant to and in accordance with the conditions of a search warrant issued under section 65, enter any place (including a dwelling house or a marae) specified in the warrant, at any time that is reasonable in the circumstances.

(3) An officer who exercises any power under this section must produce his or her evidence of appointment as a wine officer, together with evidence of his or her identity,—
- (a) on first entering the place; and
- (b) whenever subsequently reasonably required to do so by a person appearing to have charge of the place or any part of the place.

(4) A person called on to assist a wine officer under section 66(2) may accompany the officer into any premises or place that the officer enters under this section.

63 Power to examine, etc

(1) A wine officer may, so far as is reasonably necessary for the purpose of determining compliance with this Act or any requirements made under this Act at any place that the officer may enter under section 62,—
- (a) examine all things, and open containers, packages, and other things to inspect their contents:
- (b) examine, inquire about, and copy any documents or other records (including records held in electronic or other form) relating to the obligations and duties under this Act, and for this purpose may—
  - (i) remove documents or records to another place for the purpose of copying them; and
  - (ii) require a person who has control of or knowledge of the documents or records to reproduce or assist in reproducing in usable form information recorded or stored in a computer or other device or system:
- (c) use or require the use of any reasonable means to identify the kind or description of any wine, equipment, package, container, or other relevant thing:
- (d) identify or mark any wine, equipment, package, container, or other relevant thing:

(e) take samples of any wine, or any other input, substance, or thing that has been, is, or may be in contact with, or in the vicinity of, any wine, and test or analyse or arrange for the testing or analysis of the samples:

(f) direct the operator or person in charge of the place to identify and hold any wine, substance, equipment, package, container, or other relevant thing until—

(i) the results of tests and analysis have been assessed; or

(ii) any lawful direction of a wine officer has been complied with.

(2) A wine officer must return any documents or records removed under subsection (1)(b)(i) within such time as is reasonable to allow for their copying.

(3) A wine officer may call on any person to assist him or her in the exercise of his or her powers under this section. Any such person may act only under the supervision and in accordance with the instructions of the wine officer.

64 Power to interrupt operations, etc

(1) For the purposes of determining or ensuring the compliance of wine with the requirements of this Act or any requirements made under this Act, a wine officer may—

(a) interrupt any operations involved in the making or export of any wine:

(b) restrict or prohibit the use of any process, product, substance, equipment, or other relevant thing:

(c) direct the operator or the person in charge of the relevant operations to do any reasonable thing, at the cost of the operator.

(2) Where practicable in all the circumstances, the wine officer must consult with the operator or person in charge of the operations before exercising any powers under this section.

65 Issue of search warrant

(1) Any District Court Judge, Community Magistrate, Justice of the Peace, or Registrar may issue a search warrant, in the form set out in Schedule 1, in respect of any place (including any dwelling house or marae), if satisfied, on application in writing

made on oath, that there are reasonable grounds for believing that there is at that place any thing—

(a) in respect of which an offence under this Act has been or is being committed; or

(b) that has been, is being, or is intended to be used by any person for the commission of an offence under this Act; or

(c) that is or may be evidence of the commission of an offence under this Act by any person.

(2) The Judge, Community Magistrate, Justice, or Registrar may impose such reasonable conditions on the exercise of the warrant as he or she thinks fit.

(3) A search warrant must be directed to a constable by name, or to every constable, or to a wine officer by name, but, in any of these cases, the warrant may be executed by any constable.

Section 65(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

66 Powers of Police and wine officers under warrant

(1) Subject to any conditions imposed on the warrant, a search warrant authorises the constable or wine officer who is executing it, and any person called on by that constable or officer to assist,—

(a) to enter the place, dwelling house, or marae on 1 occasion within 14 days after the date of the issue of the warrant at any time that is reasonable in the circumstances; and

(b) to use such force as is reasonable in the circumstances, both for making entry and for breaking open anything on the premises; and

(c) to search for and seize—

(i) any wine, substance, equipment, or other thing that the constable or officer has reasonable grounds to suspect has been used or is to be used in, or evidences the commission of, an offence under this Act:

(ii) any documents or records (including documents and records in electronic or other form) that the officer has reasonable grounds to suspect may

provide evidence of the commission of an offence under this Act; and

(d) to take any photographs, and make any drawings or other representations of any wine, structure, substance, equipment, container, packaging, label, or other thing, if the constable or officer has reasonable grounds to suspect that object or thing in question is in breach of any requirement to this Act; and

(e) to exercise all of the powers of a wine officer under sections 63 and 64, or only such of those powers as are specified in the warrant.

(2) Where the place, dwelling house, or marae is occupied at the time, the constable or wine officer must, before using any force for the purpose of making entry under subsection (1)(b), warn the occupant of the intention to use force if the occupant obstructs entry.

(3) A constable must be present if the search warrant is executed at a dwelling house or marae.

(4) A constable or a wine officer may call on any person to assist him or her in the execution of a search warrant. Such a person may act only under the supervision and in accordance with the instructions of the constable or wine officer.

Section 66(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 66(1)(c)(i): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 66(1)(d): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 66(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 66(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 66(4): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

67 Requirements when executing warrant

(1) Any constable or wine officer who executes a search warrant must carry the warrant with him or her, and produce it for inspection, along with evidence of his or her identity,—

(a) on first entering the place specified in the warrant, to the person appearing to be in charge of the place; and

(b) whenever subsequently reasonably required to do so, at the place specified in the warrant, by any other person appearing to be in charge of the place or any part of the place.

(2) If the occupier of the place is not present at the time the search warrant is executed, the constable or wine officer must leave in a prominent location at the place a written statement of the time and date of the search, the name of the constable or wine officer, and the address of the Police station or other office to which enquiries should be made.

(3) If anything is seized in the execution of a search warrant, the constable or wine officer executing the search warrant must leave in a prominent location at the place, or deliver or send by registered mail to the occupier within 10 working days after the search, a written inventory of all things seized.

(4) A constable or wine officer who is exercising a power of entry in relation to a marae or a building associated with a marae must have regard to the kawa of the marae so far as is practicable in the circumstances.

Section 67(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 67(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 67(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 67(4): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

68 Disposal of property seized under search warrant

Section 199 of the Summary Proceedings Act 1957 applies to any property seized by a constable under a search warrant and, with any necessary modifications, to property seized under a search warrant by a wine officer, subject to the following provisions:

(a) if a constable seized the item in question, it may be retained by the Commissioner of Police pending the trial of the person for the offence in respect of which the item was seized:

(b) if a wine officer seized the item in question, it may be retained by the Director-General pending the trial of the person for the offence in respect of which the item was seized:

(c) the item in question must be returned to the person from whom it was seized—

(i) if no proceedings are taken in respect of an offence to which the item relates within 2 years after its seizure; or

(ii) if proceedings are completed in respect of such an offence and no order of forfeiture is made in respect of the item:

(d) if any person is convicted of an offence to which the item relates, the court may, if it thinks fit, order that the item be forfeited to the Crown or disposed of as the court directs at the expense of the convicted person, and may order that the person pay any reasonable costs incurred by the Commissioner of Police or the Director-General in retaining the item.

Section 68: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 68(a): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Recognised agencies and persons

69 Director-General may recognise agencies that may be responsible for verification and other specialist functions

(1) The Director-General may, on the application of any person or body, recognise that person or body as an agency that may be responsible for the verification functions and activities or other specialist functions and activities for the purposes of this Act.

(2) Before granting recognition, the Director-General must be satisfied that the applicant is a fit and proper person to manage and supply the particular functions and activities concerned, having regard to—

(a) the competencies and resources of the applicant to reliably meet and maintain the specified functions and activities for which the applicant is to be recognised under this section; and

(b) the character or reputation of the applicant, including, where appropriate, the character or reputation of the directors of the applicant or those responsible for its management or control; and

(c) the ability of the applicant to maintain an appropriate degree of impartiality and independence in relation to the relevant functions and activities; and

(d) the requirements of any regulations and specifications made under this Act.

(3) Without limiting the generality of subsection (1), the functions and activities for which an agency may be recognised include—

(a) verification functions and activities in relation to wine standards management plans:

(b) other verification functions and activities in relation to export requirements:

(c) the provision of independent evaluations of the validity of wine standards management plans for the purposes of section 18(1)(b):

(d) functions and activities in relation to the testing, sampling, and chemical or biological or other analysis of wine:

(e) functions and activities in relation to export eligibility requirements:

(f) any other function or activity involving particular competencies that may be required for the purposes of this Act.

(4) For the purposes of this Act, the Ministry, or any group of persons within the Ministry designated by the Director-General for the purpose, may be treated, without application being made, as a recognised agency, and this section and sections 71 to 82 apply accordingly with any necessary modifications.

(5) Nothing in this Act prevents a suitably qualified natural person from applying for, and being granted, recognition as both a recognised agency and a recognised person.

Section 69(3)(c): amended, on 15 December 2005, by section 4 of the Wine Amendment Act 2005 (2005 No 119).

70 Director-General may recognise persons to carry out verification or other specialist functions

(1) The Director-General may, on the application of any person who is an individual, recognise that person to carry out verification functions and activities or other specialist functions and activities for the purposes of this Act.

(2) Before granting recognition, the Director-General must be satisfied that the applicant is a fit and proper person to carry out the particular functions and activities concerned, having regard to—

(a) the relevant competencies possessed by the person; and

(b) the person's character or reputation; and

(c) the person's ability to maintain an appropriate degree of impartiality and independence in carrying out the functions and activities for which he or she has applied to be recognised; and

(d) the requirements of any regulations and specifications made under this Act.

(3) Without limiting the generality of subsection (1), the functions and activities for which a person may be recognised include—

(a) verification functions and activities in relation to wine standards management plans:

(b) other verification functions and activities in relation to export requirements:

(c) the independent evaluation of the validity of wine standards management plans for the purposes of section 18(1)(b):

(d) functions and activities in relation to the testing, sampling, and chemical or biological or other analysis of wine:

(e) functions and activities in relation to export eligibility requirements:

(f) any other function or activity involving particular competencies that may be required for the purposes of this Act.

(4) For the purposes of this Act, the Director-General may, without application being made, grant recognition to any officer or employee of the Ministry to carry out functions and activities specified by the Director-General for which the person is qual-

ified under subsection (2), and this section and sections 72 to 82 apply accordingly with any necessary modifications.

Section 70(3)(c): amended, on 15 December 2005, by section 5 of the Wine Amendment Act 2005 (2005 No 119).

71 Duties of recognised agencies

In undertaking the specified functions and activities for which it is recognised, a recognised agency has the following duties:

(a) it must ensure that all recognised persons employed or engaged or used by it are not placed in positions or situations that compromise their impartiality and independence in relation to the performance of their functions and duties under this Act:

(b) it must ensure that it is adequately resourced and that systems are maintained to ensure that its functions and activities under this Act are carried out properly.

72 Duties of recognised persons

In carrying out the functions and activities for which he or she is recognised, a recognised person has the following duties:

(a) to undertake only those functions and activities as a recognised person under this Act that are conferred on them by the Director-General:

(b) to comply with the relevant requirements of any regulations or notices in force from time to time under this Act, and any directions given by the Director-General under section 57:

(c) to maintain an appropriate degree of impartiality and independence in carrying out their functions and activities in accordance with the recognition conferred by the Director-General:

(d) to maintain appropriate confidentiality (particularly in relation to commercially sensitive matters) relating to operations and activities they come into contact with in the course of carrying out their functions and activities under this Act (except to the extent required to report under paragraph (e) or otherwise for the purposes of this Act), including matters relating to design, technology, systems, and practices:

(e) to report to the Director-General, in accordance with the requirements imposed by or under this Act,—
  (i) any failure to comply with, or any inadequacy in, a wine standards management plan:
  (ii) any other matter that is required by or under this Act to be reported on by recognised persons of the relevant type:
(f) in the case of a recognised management plan verifier, to be under the management of a recognised verifying agency.

73 Register of recognised bodies and persons

(1) The Director-General must keep and maintain a register of all agencies recognised under section 69 and all persons recognised under section 70 in relation to verification or other specialist functions and activities for the purposes of this Act.

(2) The purpose of the register is—
  (a) to enable members of the public, including persons and businesses operating under this Act, to know who is recognised as competent to undertake particular functions and activities under this Act; and
  (b) to facilitate the ability of the Director-General to ensure that traded wine is fit for its intended purpose; and
  (c) to facilitate the compliance, audit, and other supporting and administrative functions of the Ministry under this Act.

(3) The register of recognised bodies and persons must contain the following particulars in respect of each recognised body or person:
  (a) the name and address (including the electronic address, if available) of the body or person:
  (b) a description of the functions and activities for which recognition is granted:
  (c) the date of the recognition and the date of its expiry (if any):
  (d) the date of any withdrawal of recognition:
  (e) such other particulars as may be required by or under this Act.

(4) The Director-General must—

(a) keep the register open for public inspection, free of charge, at all reasonable hours at the head office of the Ministry and at such other places as the Director-General determines as necessary or appropriate; and

(b) supply to any person copies of all or part of the register on request and on payment of a reasonable charge for the production of the copy.

(5) The register may be kept in such manner as the Director-General thinks fit, including, either wholly or partly, by means of a device or facility—

(a) that records or stores information electronically or by other means; and

(b) that permits the information so recorded to be readily inspected or reproduced in usable form; and

(c) that permits the information in the register to be accessed by electronic means, including (without limitation) by means of remote log-on access.

74 Applications for recognition

(1) Every application for recognition under section 69 or section 70 must—

(a) be made in writing to the Director-General; and

(b) be in the appropriate form and manner provided or approved by the Director-General for that purpose; and

(c) be accompanied by the prescribed fee (if any).

(2) For the purpose of assessing the matters specified in section 69 or section 70, the Director-General may require an applicant to supply information additional to that contained in the application.

(3) If the applicant fails to supply the information within 3 months after the request, or within such further time as the Director-General may allow, the application lapses.

(4) The Director-General may, by notice under section 120, issue specifications setting out requirements and procedures for the recognition of agencies and persons.

75 Grant of recognition

(1) Where the Director-General determines to grant an application for recognition as an agency or a person for the purposes of any functions and activities under this Act, the Director-General must supply to the successful applicant a notice of recognition that specifies—

(a) the functions and activities the successful applicant may undertake; and

(b) any conditions applying under section 76; and

(c) the duration of the recognition.

(2) The Director-General may specify in any terms of recognition that the recognition is to have effect indefinitely or for a stated period or until a stated date.

(3) Every grant of recognition—

(a) comes into force on the date specified in the notice of recognition; and

(b) continues in force until—

(i) it is withdrawn under section 79; or

(ii) it is surrendered under section 80; or

(iii) in the case of recognition granted for a stated period or until a stated date, the expiry of that period or the passing of that date.

76 Conditions of recognition

(1) A recognition under section 75 may be subject to such conditions as the Director-General thinks fit and specifies in the notice of recognition.

(2) It is to be a condition of every recognition of an agency that, with the exception of administrative functions and related support matters, any activities of the agency that are specified in the terms of the recognition are to be carried out only by individuals who have themselves been recognised.

(3) Conditions imposed under subsection (1) may include requirements as to the provision of such returns, records, and other information as the Director-General may reasonably require from time to time to ensure that the recognised agency or person is properly carrying out the functions and activities for which they are recognised.

(4) The Director-General may at any time, by written notice to a recognised agency or person, revoke, amend, or add to any conditions imposed under subsection (1).

(5) Except where any variation to the conditions of recognition is made on the application of the recognised agency or person and in accordance with the terms of that application, the Director-General may not vary any condition of recognition imposed under this section without (to the extent practicable in the circumstances of the variation proposed) first giving the affected agency or person a reasonable opportunity to make written submissions to or be heard by the Director-General in relation to the matter.

77 Recognition fee payable

(1) Every recognised agency and every recognised person is liable to pay, either annually or at such other interval as may be prescribed, such recognition fee as may be prescribed (if any) in respect of their continued recognition.

(2) Any failure to pay the appropriate fee by the due date that persists for more than 20 working days may result in withdrawal of recognition under section 79.

78 Refusal to grant recognition

(1) If the Director-General proposes to refuse to grant recognition for the functions and activities applied for, the Director-General must give the applicant—

(a) a notice containing such particulars as will clearly inform the applicant of the substance of the grounds on which the Director-General proposes to refuse to recognise the applicant; and

(b) a copy (or adequate summary) of any information on which the Director-General relies in proposing to refuse to grant recognition; and

(c) a reasonable opportunity to make written submissions or be heard in respect of the matter.

(2) Where the Director-General finally determines to refuse to grant recognition, the Director-General must as soon as practicable notify that fact to the applicant in writing, giving reasons.

79 Withdrawal of recognition

(1) The Director-General may at any time, by notice in writing to a recognised agency or recognised person, withdraw the recognition if satisfied that—

(a) the agency or person is not, or is no longer, a fit and proper person to undertake the functions or activities for which the recognition was granted; or

(b) the agency or person has failed to comply with any term or condition of the recognition, or has failed to meet any performance criteria specified by the Director-General by notice under section 120; or

(c) the agency or person has contravened, or failed to comply with, any requirement of this Act in any particular that in the opinion of the Director-General casts doubt on the agency's or person's fitness or competency to undertake the functions or activities for which the recognition was granted.

(2) The Director-General may not withdraw recognition unless he or she has first given the agency or person concerned a reasonable opportunity to be heard.

(3) Where recognition is withdrawn under this section, the person or body whose recognition is withdrawn must, as soon as practicable,—

(a) surrender to the Director-General their notice of recognition; and

(b) take all reasonable steps to notify the fact of the withdrawal of recognition to each person who was a client of the agency or person or body (in that agency's or person's or body's capacity as a recognised agency or recognised person) immediately before the withdrawal.

80 Surrender of recognition

(1) A recognised agency or recognised person may at any time surrender their recognition by notice in writing to that effect to the Director-General.

(2) A surrender takes effect on the expiry of 3 months after the date of the receipt of the notice by the Director-General, or on such earlier date as the Director-General may approve.

(3) On or before the surrender takes effect, the recognised agency or person must send their notice of recognition to the Director-General.

81 Substituted notice of recognition

The Director-General may, if he or she thinks fit, and on payment of the prescribed fee (if any), cancel an existing notice of recognition granted under section 75, and issue a new notice in substitution,—

(a) if the terms or conditions of the recognition are to be or have been varied under section 76; or

(b) if the existing notice has become disfigured or dilapidated, or contains a mistake, or if the Director-General is satisfied that the existing notice has been lost or destroyed.

82 Decisions may be reviewed in certain cases

If a person acting under the delegated authority of the Director-General—

(a) refuses an application for recognition; or

(b) varies any condition of recognition; or

(c) withdraws recognition,—

the body or person affected may seek a review of that decision under section 114.

Protection of persons acting under Act

83 Protection of persons acting under authority of Act, etc

No wine officer, no person called on to assist a wine officer, and no recognised person who does any act or omits to do any act in pursuance of any of the functions or powers conferred on that officer or person by or under this Act is under any civil or criminal liability in respect of that act or omission, unless the officer or person has acted, or omitted to act, in bad faith or without reasonable cause.

Subpart 2—Cost recovery

84 Principles of cost recovery

(1) The Minister and the Director-General must take all reasonable steps to ensure that so many of the direct and indirect costs of administering this Act as are not provided for by money appropriated by Parliament for the purpose are recovered under this subpart, whether by way of fees, levies, or otherwise.

(2) In determining the most appropriate method of cost recovery under section 85, and its level, in any particular case or class of cases of wine, business, person, or other matter, the Minister and Director-General must have regard, as far as is reasonably practicable, to the following criteria:

(a) equity, in that funding for a particular function, power, or service, or a particular class of functions, powers, or services, should generally, and to the extent practicable, be sourced from the users or beneficiaries of the relevant function, power, or service at a level commensurate with their use or benefit from the function, power, or service:

(b) efficiency, in that costs should generally be allocated and recovered in order to ensure that maximum benefits are delivered at minimum cost:

(c) justifiability, in that costs should be collected only to meet the reasonable costs (including indirect costs) for the provision or exercise of the relevant function, power, or service:

(d) transparency, in that costs should be identified and allocated as closely as practicable in relation to tangible service provision for the recovery period in which the service is provided.

(3) Costs should not be recovered under this subpart unless there has been appropriate consultation with affected parties and relevant industry organisations in accordance with section 115, and the parties involved have been given sufficient time and information to make an informed contribution.

(4) Nothing in subsection (3) or in section 87 or section 115 requires consultation in relation to specific fees or charges, or the specific levels of fees or charges, so long as the fees or charges set are reasonably within the purview of any general

consultation or any consultation carried out for the purposes of section 115, and a failure to comply with subsection (3) does not affect the validity of any regulations made for the purposes of this subpart.

(5) Nothing in this section requires a strict apportionment of the costs to be recovered for a particular function or service based on usage; and, without limiting the way in which fees or charges may be set, a fee or charge may be set at a level or in a way that—

(a) is determined by calculations that involve an averaging of costs or potential costs:

(b) takes into account costs or potential costs of services that are not directly to be provided to the person who pays the fee or charge but which are an indirect or potential cost arising from the delivery of the service in question to a class of persons or all persons who use the service.

85 Methods of cost recovery

The methods by which costs may be recovered under this subpart are as follows:

(a) fixed fees or charges:

(b) fees or charges based on a scale or formula or at a rate determined on an hourly or other unit basis:

(c) use of a formula or other method of calculation for fixing fees and charges:

(d) the recovery by way of fee or charge of actual and reasonable costs expended in, or associated with, the performance of a service or function:

(e) estimated fees or charges, or fees or charges based on estimated costs, paid before the provision of the service or function, followed by reconciliation and an appropriate further payment or refund after provision of the service or function:

(f) refundable or non-refundable deposits paid before provision of the service or performance of the function:

(g) fees or charges imposed on users of services or third parties:

(h) levies:

(i) any combination of the above.

86 Cost recovery to relate generally to financial year

(1) Except as provided in subsection (2), any regulations under this subpart that set a fee, charge, or levy that applies in any financial year—

(a) must have been made before the start of that financial year; but

(b) except as the regulations may otherwise provide, apply in that year and all subsequent years until revoked or replaced.

(2) Subsection (1) does not prevent the alteration or setting during any financial year of a fee, charge, or levy payable in that year if either—

(a) the fee, charge, or levy is reduced, removed, or restated without substantive alteration; or

(b) in the case of an increase or a new fee, charge, or levy,—

(i) appropriate consultation in accordance with section 115 has been carried out with persons or representatives of persons substantially affected by the alteration or setting; and

(ii) the Minister is satisfied that those persons, or their representatives, agree or do not substantially disagree with the alteration or setting.

(3) Subsection (1) does not prevent the amendment of any regulation setting a fee, charge, or levy if any substantive alteration effected by the amendment is for the purpose of correcting an error.

(4) Recovery may be made in any financial year of any shortfall in cost recovery for any of the preceding 4 financial years, and allowance may be made for any over-recovery of costs in those years (including any estimated shortfall or over-recovery for the immediately preceding financial year).

87 Three-yearly review of cost recovery

(1) The Minister must cause to be reviewed, at least once in every 3-year period occurring since the original setting of, or latest change to, the levels and methods of cost recovery in relation to any class of wine, business, person, or other matter, the

levels and methods of cost recovery in the relevant area that are likely to be appropriate for the following financial year or years.

(2) The Minister must ensure that appropriate consultation in accordance with section 115 takes place in relation to any such review.

(3) A review may make provision for recovery in any relevant financial year of any shortfall in cost recovery for any of the preceding 4 financial years, or make allowance for any over-recovery of costs in those years (including any estimated shortfall or over-recovery for the immediately preceding financial year).

(4) Subsection (1) does not require all areas of cost recovery to be reviewed at the same time, nor does it impose any time limit on the making of regulations to implement the results of a review.

88 Fees and charges to be prescribed by regulations

(1) Regulations may be made under this Act, on the recommendation of the Minister, prescribing fees and charges for the purposes of this Act.

(2) The fees and charges may be prescribed using any 1 or more of the methods specified in section 85, or any combination of those methods.

(3) Different fees and charges, or different rates or types of fee or charge, may be prescribed in respect of different classes or descriptions of wine, persons or businesses, operations, or other matters, or any combination of them.

(4) Without limiting subsection (3), the fees and charges prescribed may—

(a) differ depending on whether or not a special or urgent service is provided:

(b) include more than 1 level of fee or charge for the same service provided in different ways, or provided in or in respect of different places:

(c) differ for otherwise similar services provided in different ways:

(d) differ for otherwise similar services provided to different categories of person:

(e) differ depending on the amount of service required or the components of the service required for the particular person or class of person.

(5) Where regulations prescribe a formula for determining a fee or charge, the formula may specify the value of 1 or more of its components as being an amount or amounts notified for these components by the Director-General under section 120.

(6) The Minister may not recommend the making of regulations under this section unless satisfied that, to the extent appropriate in the circumstances, the requirements of sections 84 and 86 have been met.

89 Regulations may impose levies

(1) Regulations may be made under this Act, on the recommendation of the Minister, prescribing levies for the purposes of this Act.

(2) Different levies or rates of levy or bases on which an amount of levy is to be calculated or ascertained may be prescribed for different purposes, and different levies or rates of levy or bases for calculation may be set for different classes or descriptions of wine, persons or businesses, operations, or other matters, or any combination of them.

(3) Without limiting the generality of subsection (1), regulations imposing levies may—

(a) specify when and how any levy is to be paid:

(b) require that any levy, or estimated amount of levy, be paid in advance of performance of the services or functions to which it relates:

(c) specify persons, other than persons primarily responsible for paying the levy, who are to be responsible for collecting a levy, and provide for retention of any part of the levy money collected as a fee for that service:

(d) require, or empower the Director-General to require, the provision of information and returns in relation to levies:

(e) require the keeping of separate trust accounts for levy money received or deducted by persons responsible for collecting levies, and prescribe matters in relation to those trust accounts:

(f) prescribe a method of arbitration or mediation in the case of disputes as to—
  (i) whether or not any person is required to pay, or collect, the levy concerned; or
  (ii) the amount of levy any person is required to pay or collect;—

  and provide for related matters, including procedures and remuneration for arbitrators or mediators.

(4) The Minister may not recommend the making of regulations under this section unless satisfied that, to the extent appropriate in the circumstances, the requirements of sections 84 and 86 have been met.

(5) Nothing in this section or in this subpart affects the power of persons within the winemaking industry to determine to introduce and impose a levy on wine in accordance with section 111.

90 Trust accounts required to be kept by persons collecting levies

(1) If regulations made under section 89 require the operation of a trust account for any levy money by the person responsible for collecting the levy,—
  (a) any amount held in such an account that is due to be paid to the Director-General by the levy collector is to be treated as levy money held on trust for the Director-General; and
  (b) any amount so held on trust is not available for the payment of any creditor (other than the Director-General) of the levy collector, and is not liable to be attached or taken in execution at the instance of any such creditor; and
  (c) a person who ceases to be a person responsible for collecting a levy must continue to maintain the trust account until all the levy money payable to the Director-General in respect of the period during which the person was responsible for collecting the levy has been paid.

(2) Nothing in subsection (1)(c) affects any obligation or liability under this Act of any other person who has become responsible for collecting the levy concerned.

91 Other charges not requiring to be prescribed

(1) Nothing in this subpart or in any other provision of this Act prevents the Director-General from requiring a reasonable charge to be paid for any of the services the Ministry provides in relation to the administration of this Act, or any actual and reasonable expenses incurred in providing the services, other than services in respect of which a fee or charge or levy is prescribed under this subpart.

(2) Without limiting subsection (1), and for the avoidance of doubt, the Director-General may—

(a) operate a telephone information service for which each caller pays according to their usage or on some averaged basis:

(b) charge persons for the cost of mailing, faxing, emailing, or couriering information to them:

(c) charge for the cost of written material, unless that material is required by an Act or by regulations made under this Act to be provided free of charge:

(d) charge for access to any website, or for information or services provided by any website, operated by the Ministry:

(e) charge for access to any library or research services provided in relation to matters pertaining to wine, or associated things:

(f) charge any person for services provided in relation to a wine business or otherwise under this Act.

(3) All money received by the Ministry as a result of such charges must be paid into the Departmental Bank Account.

92 Exemptions, waivers, and refunds

(1) Regulations made under this Act may provide for exemptions from, or waivers or refunds of, any fee, levy, or charge payable under this Act, in whole or in part, in any class of case.

(2) Any such regulations may authorise the Director-General to grant an exemption, waiver, or refund in any particular case or class of case.

93 Fees, levies, and charges to constitute debt due to Director-General

Any fee, levy, or charge that has become payable is a debt due to the Director-General, and is recoverable as a debt by the Director-General in any court of competent jurisdiction. Until paid in full, it remains a debt due to the Crown.

94 Penalties for failure to pay fee, levy, or charge

(1) If a person has failed to pay to the Director-General by the due date any fee, levy, or charge payable under this subpart,—

(a) section 14 of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 applies to increase the amount payable; and

(b) section 15 of that Act applies to allow the Director-General, in appropriate cases, to waive the payment of all or any of the amount of any such increase; and

(c) section 16 of that Act applies to allow the Director-General to withdraw, or refuse to provide the person in default with, any service of the kind to which the debt relates.

(2) For the purposes of subsection (1)(c) of this section and section 16 of the Ministries of Agriculture and Forestry (Restructuring) Act 1997, and without limiting the generality of that section 16, the references in those provisions to the withdrawal or refusal to provide any service are to be treated as also authorising the Director-General, in an appropriate case, to—

(a) withhold or suspend any approval under this Act, or refuse to perform any function under this Act in relation to the person in default:

(b) withhold the registration of any exporter or wine standards management plan under this Act, or require the suspension of any relevant operations of the exporter or operator of the wine standards management plan:

(c) withhold any official assurance:

(d) withhold any export eligibility certificate.

(3) Where the withdrawal of any approval or registration under this section, or any suspension of operations, requires the Director-General to provide any further service, or perform any further function involved in the withdrawal or suspension, the

Director-General may recover any reasonable amount for the additional service, function, or costs as a debt due from the person who owns or is responsible for the operation concerned.

95 Obligation to pay fee, levy, or charge not suspended by dispute

The obligation of a person to pay any fee, levy, or charge under this Act (including any penalty referred to in section 94), and the right of the Director-General to receive and recover the fee, levy, charge, or penalty, are not suspended by any dispute between the person and the Director-General regarding the person's liability to pay the fee, levy, or charge, or the amount of the fee, levy, or charge.

96 Levy regulations to be confirmed

(1) Where regulations imposing a levy have been made under this subpart on or after 1 January in any year and before 1 July in that year, and—

(a) have not been revoked with effect on or before 1 July in the next year; and

(b) have not ceased, and will not cease, to have effect on or before 1 July in the next year by virtue of the Regulations (Disallowance) Act 1989,—

they are to be treated as having been revoked with the close of 30 June in that next year unless confirmed by an Act of Parliament passed on or before that day.

(2) Where any regulations imposing a levy have been made under this subpart after 30 June in any year and on or before 31 December in that year, and—

(a) have not been revoked with effect on or before 1 January in the year after the next year; and

(b) have not ceased, and will not cease, to have effect on or before 1 January in the year after the next year by virtue of the Regulations (Disallowance) Act 1989,—

they are to be treated as having been revoked with the close of 31 December in the year after the year in which they were made, unless confirmed by an Act of Parliament passed on or before that day.

Part 4
Offences, penalties, and miscellaneous provisions

Offences, penalties, and proceedings

97 Offences involving deception

(1) A person commits an offence who, with intent to deceive and for the purpose of obtaining any material benefit or avoiding any material detriment,—

(a) makes any false or misleading statement or any material omission in any communication, application, record, or return for the purpose of this Act, or destroys, cancels, conceals, alters, obliterates, or fails to provide any document, record, return, or information required to be kept or communicated under this Act; or

(b) falsifies, removes, misuses, alters, misapplies, misrepresents, or fails to apply any label, brand, material, or product description of wine required or authorised to be used under this Act; or

(c) misrepresents, substitutes in whole or in part, adulterates, or otherwise tampers with wine to which this Act applies so that it no longer matches or complies with its description, certificate, label, or official assurance; or

(d) falsifies, alters, or misapplies any certificate or declaration or other statutory form attached or relating to wine that is required or authorised to be used under this Act, or any official assurance, or tampers with any wine that is subject to such a certificate, declaration, form, or assurance; or

(e) falsifies, removes, suppresses, or tampers with any samples, test procedures, test results, or evidence taken or seized by a wine officer or by a recognised agency or a recognised or otherwise authorised person in the performance or exercise of their functions or powers under this Act; or

(f) falsifies, removes, suppresses, or tampers with any samples, test procedures, or test results taken by or for an operator of a wine standards management plan for the purposes of that plan or this Act, or by or for a person

subject to the requirements of a wine standards management plan for the purposes of that wine standards management plan or this Act; or

(g) aids, abets, incites, counsels, procures, or conspires with any other person to commit an offence under this section.

(2) A prosecution for an offence against this section may be proceeded with either summarily or on indictment.

(3) A person who commits an offence against subsection (1) is liable—

(a) in the case of a body corporate, to a fine not exceeding $500,000:

(b) in the case of an individual, to imprisonment for a term not exceeding 5 years and a fine not exceeding $100,000.

98 Offences involving endangerment of human health

(1) A person commits an offence who, being a winemaker, or an exporter of wine, or a transporter of commodities or wine, or a producer of commodities, contravenes or fails to comply with any provision of this Act or of regulations made or any notice given under this Act, knowing that the contravention or failure would or is likely to endanger the health of the public, or the health of any individual.

(2) A person commits an offence who, being the operator of a wine standards management plan or a person who is required to operate under a wine standards management plan, contravenes or fails to comply with any provision of this Act or of regulations made or any notice given under this Act, knowing that the contravention or failure—

(a) may create, directly or indirectly, a risk to human health; or

(b) may, directly or indirectly, increase the likelihood of an existing risk to human health.

(3) A prosecution for an offence against this section may be proceeded with either summarily or on indictment.

(4) A person who commits an offence against subsection (1) is liable—

(a) in the case of a body corporate, to a fine not exceeding $500,000:

(b) in the case of an individual, to imprisonment for a term not exceeding 5 years and a fine not exceeding $100,000.

(5) A person who commits an offence against subsection (2) is liable—

(a) in the case of a body corporate, to a fine not exceeding $300,000:

(b) in the case of an individual, to imprisonment for a term not exceeding 2 years and a fine not exceeding $75,000.

99 Sale of non-complying wine

(1) A person commits an offence who sells or offers for sale, or has in the person's possession for sale, any wine to which Part 2 applies that, to the person's knowledge, has not been made in accordance with the requirements of that Part that apply to the wine, or is not otherwise fit for its intended purpose.

(2) A person commits an offence who sells or offers for sale, or has in possession for sale, any wine that purports or is represented to have been made in accordance with subparts 1 and 2 of Part 2, but that, to the person's knowledge, has not been made in accordance with those subparts.

(3) A prosecution for an offence against this section may be proceeded with either summarily or on indictment.

(4) A person who commits an offence against this section is liable—

(a) in the case of a body corporate, to a fine not exceeding $250,000:

(b) in the case of an individual, to a fine not exceeding $50,000.

100 Offence to export unless registered or in compliance with export eligibility requirements

(1) A person commits an offence who, being a person who is required to be registered as an exporter in relation to the wine concerned, without being so registered exports any wine to which subpart 3 of Part 2 applies other than in accordance with

an exemption granted under section 6 or section 39 or by regulations made under this Act.

(2) A person commits an offence who exports any wine that does not comply with any relevant export eligibility requirements.

(3) A prosecution for an offence against this section may be proceeded with either summarily or on indictment.

(4) A person who commits an offence against this section is liable to a fine not exceeding—
  (a) $250,000, in the case of a body corporate; or
  (b) $50,000, in the case of an individual.

101 Obstruction of officers, etc

(1) A person commits an offence who threatens, assaults, or intentionally obstructs or hinders—
  (a) any wine officer; or
  (b) an assistant of a wine officer; or
  (c) any recognised agency, recognised person, or other authorised person—

who is acting in the performance or exercise of a function, power, or duty under this Act or under any wine standards management plan.

(2) A person commits an offence who, with intent to deceive, personates or pretends to be a wine officer or recognised verifying agency, or a person referred to in subsection (1)(c).

(3) A person who commits an offence against this section is liable on summary conviction to a fine not exceeding—
  (a) $250,000, in the case of a body corporate; or
  (b) $50,000, in the case of an individual.

102 Offence of breach of duty

(1) A person commits an offence who, without reasonable excuse,—
  (a) being the operator of a wine standards management plan, breaches or fails to carry out any of the duties specified in section 13; or
  (b) being an exporter, breaches or fails to carry out any of the duties specified in section 40; or

(c) being a recognised agency, breaches or fails to carry out any of the duties specified in section 71; or

(d) being a recognised person, breaches or fails to carry out any of the duties specified in section 72.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding—

(a) $100,000, in the case of a body corporate; or

(b) $20,000, in the case of an individual.

103 Failure to comply with Act, etc

(1) A person commits an offence who, without reasonable excuse, fails to comply with—

(a) any provision of this Act; or

(b) any provision of any regulations made under this Act the failure to comply with which is specified in those regulations as an offence; or

(c) any direction, condition, notice, or requirement lawfully given, made, or imposed by or under this Act.

(2) A person who commits an offence against this section for which no other penalty is specified is liable on summary conviction to a fine not exceeding—

(a) $100,000, in the case of a body corporate; or

(b) $20,000, in the case of an individual.

104 Defence for persons charged with breach of duty or failure to comply

(1) In any prosecution for an offence against section 102 or section 103, it is a defence if the defendant proves that—

(a) the breach or failure concerned was due to the act or omission of another person, or to an accident or some other cause outside the defendant's control; and

(b) the defendant took reasonable precautions and exercised due diligence to avoid the breach or failure, or breaches or failures of that kind.

(2) A defence under subsection (1) is available only if, at least 14 days before the date on which the hearing of the proceedings commences or within such further time as the court may allow, the defendant delivers to the prosecutor a written notice that—

(a) states that the defendant intends to rely on the relevant defence; and

(b) specifies the nature of the act or omission constituting the relevant breach or failure and the precautions taken against such breaches or failures.

105 Evidence in proceedings

(1) In any proceedings for an offence under this Act, a certificate or document (including electronic copy) of any of the following kinds is admissible in evidence and, in the absence of proof to the contrary, is sufficient evidence of the matter stated in the certificate or of the contents of the document, as the case may require:

(a) a certificate purporting to be signed by the Director-General, or by a delegate of the Director-General, to the effect that, at any specified date or period,—

(i) a named person or body is or was, or is not or was not, a wine officer, a recognised verifying agency, a recognised person, a recognised agency, or an employee of the Ministry; or

(ii) a specified wine standards management plan was or was not registered or was or was not amended, deregistered, or surrendered under subpart 1 of Part 2; or

(iii) a named person was or was not registered as an exporter under subpart 3 of Part 2, or the person's registration was or was not removed or surrendered; or

(iv) a class, kind, or description of wine is or was, or is not or was not, subject to export eligibility requirements; or

(v) a specified operation was or was not suspended under subpart 1 or subpart 3 of Part 2; or

(vi) any official assurance, or any statement under section 60, had or had not been given in respect of any wine or consignment; or

(vii) a specified document was or was not a copy of an official assurance given under this Act; or

(viii) a specified document was or was not a copy of a registered wine standards management plan; or

(ix) a specified document was or was not a copy of a notice or direction given under this Act; or

(x) a specified document was a copy of an extract from a register kept under this Act:

(b) a certificate purporting to be signed by any person authorised by this Act or the State Sector Act 1988 to delegate to any person, or to persons of any kind or description, the exercise or performance of any power or function under this Act, stating that—

(i) the person has delegated the exercise or performance of the power or function specified in the certificate to the person specified in the certificate; or

(ii) the person has delegated the exercise of the power or function specified in the certificate to persons of a kind or description specified in the certificate, and that a named person specified in the certificate is a person of that kind or description:

(c) a certificate purporting to be signed by an analyst or a recognised person stating the results of an analysis, test, or examination of a sample taken under or for the purposes of this Act:

(d) a document purporting to be a copy of any material incorporated by reference into any regulation or notice or order under section 121:

(e) a document purporting to be a copy of a registered wine standards management plan:

(f) a document purporting to be a copy of an official assurance or a statement given under section 60:

(g) a document purporting to be a copy of a notice or direction or approval or specification (including a copy of any material incorporated by reference) or requirement given under this Act.

(2) The production of a certificate or document purporting to be a certificate or document to which subsection (1) applies is prima facie evidence that it is such a certificate or document,

without proof of the signature of the person purporting to have signed it or of its nature.

(3) No certificate of an analyst or a recognised person, and no other evidence of an analysis, test, or examination under this Act, is to be ruled inadmissible or disregarded by reason only of the fact that any of the provisions of this Act or of any regulations or specifications made under this Act relating to the taking, analysing, testing, or examining of samples have not been strictly complied with, if there has been reasonable compliance with those provisions.

(4) A certificate or document to which subsection (1) applies is not admissible in evidence unless—

(a) at least 14 days before the hearing at which the certificate or document is to be tendered, a copy is served, by or on behalf of the prosecutor, on the defendant or the defendant's agent or counsel, and that person is at the same time informed in writing that the prosecutor does not propose to call the person who signed the certificate or document as a witness at the hearing or to call evidence as to the nature of the document; and

(b) the court has not, on the application of the defendant made not less than 7 days before the hearing, ordered, not less than 4 days before the hearing (or such lesser period as the court in the special circumstances of the case thinks fit), that the certificate or document should not be admissible as evidence in the proceedings.

(5) The court may not make an order under subsection (4)(b) unless it is satisfied that there is a reasonable doubt as to the accuracy or validity or identity of a certificate or document.

106 Presumption as to authority

(1) A return, record, transaction, form, application, or other information purporting to be completed, kept, or provided by or on behalf of a person is for the purposes of this Act to be presumed to have been completed, kept, or provided by that person unless the contrary is proved.

(2) The production of—

(a) a document presented by a wine officer purporting to be a notice or an extract from a notice issued by the Dir-

ector-General in accordance with section 116 or section 120, or a copy of any such notice or extract; and

(b) a copy of the *Gazette* in which the notice was notified—

is in all courts and in all proceedings sufficient evidence, until the contrary is proved, of the existence, notification, and contents of the notice.

107 Liability of body corporate

If, in the course of proceedings against a body corporate for an offence under this Act, it is necessary to establish the state of mind of the body corporate, it is sufficient to show that a director, employee, or agent of the body corporate, acting within the scope of that person's actual or apparent authority, had that state of mind.

108 Liability of directors and managers of companies

Where a body corporate is convicted of an offence under this Act, every director and every person concerned in the management of the body corporate is also guilty of a like offence if it is proved that—

(a) the act or omission that constituted the offence took place with the authority, permission, or consent of the director or person; or

(b) the director or person knew that the offence was to be or was being committed, and failed to take all reasonable steps to prevent or stop it.

109 Liability of companies and persons for actions of agent or employee

(1) Any act or omission on behalf of a body corporate or other person (each called the **principal**) by a director, agent, or employee (each called the **agent**) of the principal is to be treated for the purposes of this Act as being also the act or omission of the principal.

(2) Despite subsection (1), where a principal is charged under this Act in relation to the act or omission of an agent for an offence against any of sections 97, 98, 99, and 100, it is a defence to the charge if the principal proves that the principal took all

reasonable steps to prevent the commission of the offence or the commission of offences of that kind.

110 Offences generally punishable on summary conviction

(1) Except as provided in sections 97(2), 98(3), 99(3), and 100(3), every offence under this Act or any regulations made under this Act is punishable on summary conviction.

(2) Despite section 14 of the Summary Proceedings Act 1957, an information in respect of an offence against this Act may be laid at any time within 2 years after the time when the matter of the information arose.

Industry levies

111 Application of Commodity Levies Act 1990 to wine

(1) The purpose of this section is to allow the wine industry to determine to introduce and impose 1 or more levies on wine that are payable to a body representing the views and interests of winemakers.

(2) Subject to this section, the provisions of the Commodity Levies Act 1990 apply to wine as if it were a commodity within the meaning of that Act.

(3) Despite subsection (2),—

(a) paragraphs (ag) to (ak) of section 5(2) of the Commodity Levies Act 1990 apply as if the references in those paragraphs to "more than half" of the various kinds of support or totals were references to "more than 60%" of the relevant support or total:

(b) a referendum to demonstrate support for the levy proposal may include sub-referenda within industry-agreed groups within the wine industry; if this is the case, the more than 60% support requirement applies to each industry-agreed group.

(4) Despite subsection (2), any wine levy order made in accordance with this section and the provisions of the Commodity Levies Act 1990—

(a) may be made under this Act, rather than under that Act, as if authorised by section 119 of this Act; but

(b) must be made on the recommendation of the Minister responsible for the Commodity Levies Act 1990, and are to be administered under that Act.

Recordkeeping requirements

112 Records and returns

(1) The following persons must keep such records and other information in relation to wine and associated things, and make such returns to the Director-General as may reasonably be required by or under regulations or other specifications or requirements made by or under this Act:

(a) operators of wine businesses:

(b) operators of registered wine standards management plans:

(c) exporters:

(d) recognised persons:

(e) recognised agencies:

(f) owners or persons in control (or reasonably appearing to be in control) of any wine or commodity.

(2) The following persons must also keep such records and information, and make such returns to the Director-General, as may be required by or under a registered wine standards management plan:

(a) the operator of a wine standards management plan:

(b) recognised management plan verifiers and recognised verifying agencies who carry out verification functions and activities in relation to the plan:

(c) any other recognised person or recognised agency who undertakes functions or activities in relation to the plan.

(3) For the purposes of this Act, the Director-General may, in any particular case or class of cases, by notice under section 120,—

(a) require records and other information additional to those specified in regulations to be kept and provided to the Director-General by any person referred to in subsection (1) or subsection (2); and

(b) specify the manner and form in which information is to be provided in returns to the Director-General; and

(c) specify the period for which or date until which records must be kept.

113 Records to be available for inspection, etc

A person who is required by or under section 112 to keep records or any other information must at all reasonable times—

(a) on demand from the Director-General or any wine officer, provide access to all relevant information required to be kept under this Act in the person's possession with respect to any wine or thing subject to this Act or any associated thing; and

(b) permit the Director-General or any wine officer to inspect and make copies of the record or information.

Right of review

114 Right of review of certain decisions made under delegated authority

(1) This section applies to any of the following decisions made under this Act by a person acting under the delegated authority of the Director-General, or by a person or organisation acting pursuant to an arrangement or contract with the Director-General:

(a) a decision to refuse to register a wine standards management plan or an amendment to a plan under subpart 1 of Part 2:

(b) a decision to impose conditions on the registration of a wine standards management plan under section 19:

(c) a decision to suspend all or any operations under a wine standards management plan under section 24:

(d) a decision to deregister a wine standards management plan under section 25, or to remove a wine business or part business from coverage of a plan under section 26:

(e) a decision to refuse to register a person as an exporter under subpart 3 of Part 2:

(f) a decision to deregister an exporter or to suspend export operations under subpart 3 of Part 2:

(g) a decision to refuse to recognise a person or agency under subpart 1 of Part 3:

(h) a decision to vary any condition of recognition, or to withdraw recognition of a person or agency under subpart 1 of Part 3:

(i) any decision specified by regulations made under this Act as a decision to which this section applies.

(2) A person who is dissatisfied with any such decision may seek a review of the decision by the Director-General or by a person designated by the Director-General who was not involved in making the original decision.

(3) An application for a review must—

(a) be in writing; and

(b) state the grounds on which it is believed that the original decision was inappropriate; and

(c) be provided to the Director-General within 20 working days after the original decision was notified to the applicant.

(4) The Director-General, or a person designated by the Director-General who was not involved in the original decision, must review the matter within 40 working days, or within such extended period not exceeding a further 20 working days as the Director-General or designated person may specify by notice in writing to the applicant.

(5) For the purposes of a review, the Director-General or designated person may require the applicant to supply information additional to that contained in the application for review within a specified time. The time taken to supply any such information (or allowed for its supply, if the information is not in fact supplied) is not to be counted for the purposes of the time limits specified in subsection (4).

(6) The decision sought to be reviewed remains valid unless and until altered by the Director-General or designated person.

(7) The Director-General or designated person must, as soon as practicable, notify the applicant for review of his or her decision on the review in writing, giving reasons for the decision.

(8) A decision by the Director-General under this section is final, unless determined otherwise by a court of law of competent jurisdiction.

Consultation, notification, etc

115 Consultation requirements for making of certain orders, specifications, etc

(1) Before making a recommendation for the making of any Order in Council or regulations under this Act, the Minister—

(a) must be satisfied that the Director-General has carried out consultation in accordance with subsection (3) and has advised the Minister of the results of any such consultation; and

(b) must take into account the results of that consultation.

(2) Before setting any specifications or requirements made pursuant to section 120 (other than for the purposes of section 41(1)), the Director-General must consult in accordance with subsection (3) and take into account the results of that consultation.

(3) The Director-General must—

(a) do everything reasonably practicable on his or her part to consult with the persons or industry organisations that appear to the Director-General to be representative of the interests of persons likely to be substantially affected by the making of the relevant order or regulations or the setting of the relevant specifications or requirements referred to in subsections (1) and (2); and

(b) in the case of a proposed Order in Council or regulations, advise the Minister of the results of any such consultation.

(4) The process for consultation should, to the extent practicable in the circumstances, include—

(a) giving adequate and appropriate notice of the intention to make the order or regulations or set the specifications or requirements; and

(b) providing a reasonable opportunity for interested persons to make submissions; and

(c) adequate and appropriate consideration of any such submissions.

(5) This section does not apply in respect of the making of any order or regulations, or the setting of any specifications or requirements by the Director-General, if the Minister or Dir-

ector-General considers it necessary or desirable in the public interest that the order or regulations be made, or the specifications or requirements be set, as a matter of urgency.

(6) A failure to comply with this section does not affect the validity of any order or regulations made or any specifications or requirements set under this Act.

116 Notification of certain matters

(1) This section applies to notices issued by the Director-General that are of a kind listed in section 120.

(2) Where any notice to which this section applies affects only 1 person or a small number of persons, and the identity of those persons is known, the Director-General must—

(a) notify the persons of the matter individually in accordance with section 117; and

(b) either—

(i) supply them with a copy of the specifications, requirements, exemption, or other matter concerned; or

(ii) notify them where they may inspect a copy free of charge (which may include inspection by electronic means) or obtain a copy on payment of a reasonable charge.

(3) Where it is not possible or practicable to notify a matter to which this section applies in accordance with subsection (2), the Director-General must—

(a) either publish the specifications, requirements, exemption, or other matter concerned in the *Gazette*, or notify their making or existence in the *Gazette*; and

(b) where the Director-General considers it practicable, cause them to be brought to the attention of persons likely to be affected by them by notice or publication in any newspaper or trade journal, or by any other practicable means (including electronic means).

(4) If the specifications, requirements, exemption, or other matter concerned are notified only, and not published, in the *Gazette*,—

(a) the Director-General must make copies available for inspection free of charge, and for purchase at a reasonable

cost, at the head office of the Ministry and at such other places as the Director-General determines; and

(b) the *Gazette* notice must specify where a copy may be inspected or obtained.

117 Service of individual notices, etc

(1) Where under any of the provisions of this Act any notice or other document or information is to be served on or supplied to the Minister, the Director-General, or a wine officer, it may be delivered, whether personally, by post, or by electronic means acceptable to the Director-General, to a wine officer at an appropriate office of the Ministry.

(2) Where under any of the provisions of this Act any person is to be notified of any matter, written notice of that matter may be given or supplied to the person either personally or by post or fax addressed to that person, or by electronic means acceptable to the person, at—

(a) the person's address or electronic address as notified under this Act; or

(b) the person's last known business or residential address, in any other case.

(3) Where a solicitor represents that the solicitor is authorised to accept any notice or document on behalf of any person, it is sufficient notification to deliver the document to the solicitor if the solicitor signs a memorandum stating that he or she accepts the document on behalf of that person.

(4) Where any notice or other document or information is posted to a person (whether physically or by electronic means), it will be treated as having been received by that person not later than 7 days after the date on which it was posted, unless the person proves that, otherwise than through fault on the person's part, it was not so received.

118 Directions, etc, to non-Ministry persons with functions under Act

(1) This section applies in the case where the Director-General wishes to issue any notice, direction, or instruction or otherwise communicate any requirement (a **notification**) to a person or body (the **relevant person**) who—

(a) has functions for the purposes of the administration of this Act, whether as a recognised person or recognised agency or otherwise; and

(b) is a person or body who is not a Ministry employee or officer or group of Ministry employees or officers.

(2) Where the Director-General wishes to issue a notification to a relevant person, the Director-General may issue that notification—

(a) to the relevant person directly; or

(b) to the relevant person's employer.

(3) If the notification is issued to the relevant person directly, the Director-General must also, within a reasonable time, supply a copy of it to the relevant person's employer.

(4) If the notification is issued to the relevant person's employer,—

(a) the notification must clearly identify the relevant person or class of relevant persons the notification is intended for; and

(b) it is deemed to have been given to the relevant person or persons if given within a reasonable time before the notification is required to be acted upon; and

(c) the employer is under a duty to inform the relevant person, or all persons of the relevant class, of the content of the notification as soon as reasonably practicable having regard to the tenor of the notification.

(5) For the purposes of subsections (3) and (4), **within a reasonable time** means—

(a) within 7 days; or

(b) within such greater or lesser period, or at such greater or lesser intervals in relation to groups of notifications, as may have been generally agreed between the Director-General and the employer, or notified by the Director-General to the employer, in respect of notifications of that kind.

(6) In this section, **employer**, in relation to the relevant person, includes—

(a) a director, partner, secretary, or other officer or official of a company or other body of which the relevant person is an employee:

(b) a company or other body to whom the relevant person is contracted in relation to the person's functions for the purposes of this Act.

Regulations, notices, etc

119 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) exempting under section 6 any winemaker from the ambit of the Act or from the requirement to operate under a wine standards management plan:

(b) prescribing requirements, criteria, specifications, procedures, and related matters in relation to wine standards management plans and the amending and updating of wine standards management plans:

(c) prescribing wine standards, including criteria, specifications, and other related matters, in accordance with subpart 2 of Part 2:

(d) prescribing export eligibility requirements under section 38, and procedures and requirements in relation to them:

(e) prescribing procedures and requirements relating to the registration of exporters:

(f) prescribing exemptions for, or additions to, any class of consignment, wine, or person for the purposes of section 39(2), including prescribing conditions in respect of any such exemption or addition and authorising the Director-General to exempt or impose conditions in relation to any consignment, wine, or person of a prescribed class:

(g) prescribing procedures and requirements for applying for and obtaining official assurances, and otherwise prescribing matters in relation to official assurances:

(h) prescribing procedures and requirements relating to the recognition of agencies and persons:

(i) 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:

(j) imposing and prescribing fees, charges, levies, and other cost recovery mechanisms for the purposes of subpart 2 of Part 3, and generally for the purposes of this Act:

(k) imposing and prescribing levies to fund industry activities relating to wine pursuant to section 111:

(l) prescribing records, returns, or information in relation to wine or associated things that any person or class of persons may be required to keep or provide to the Director-General or any wine officer:

(m) prescribing forms and procedures for the purposes of this Act:

(n) specifying matters that constitute offences for the purposes of section 103(1)(b):

(o) specifying any matters of a general nature that may be specified by the Director-General by notice under section 120:

(p) providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

(2) Regulations made under this Act may—

(a) authorise the Minister or the Director-General to issue or impose any approval, requirement, prohibition, specification, restriction, condition, direction, instruction, or order in any particular case or class of cases:

(b) authorise a wine officer to issue or impose any requirement, prohibition, condition, direction, or instruction in any particular case or class of cases:

(c) exempt from compliance with or from the application of any provisions of the regulations any wine, process, operation, person, place, premises, or area, or authorise the Minister or the Director-General to grant such exemptions as the regulations may specify.

120 Notices

(1) The Director-General may from time to time issue notices for the following purposes:

(a) setting specifications in relation to wine standards management plans for the purposes of subpart 1 of Part 2:

(b) granting limited exemptions under section 11(1):

(c) specifying for the purposes of section 21 the circumstances that will, or will not, be treated as involving a change in the operator of a wine standards management plan:

(d) specifying matters in relation to the amendment of wine standards management plans under section 22, including specifying the kinds of changes that do or do not constitute an amendment requiring registration, and specifying the amount of notice of a future amendment that may be required:

(e) specifying matters in relation to the updating of wine standards management plans under section 23:

(f) notifying requirements in relation to the termination of contracts with recognised verifying agencies under section 28:

(g) specifying matters of detail in relation to wine standards in accordance with subpart 2 of Part 2:

(h) exempting under section 39 any particular consignment or wine or person, or class of consignments, wine, or persons, from the export requirements of subpart 3 of Part 2:

(i) specifying particulars to be shown on any of the registers required to be kept by this Act:

(j) setting specifications and providing matters of detail in relation to export eligibility requirements:

(k) notifying overseas market access requirements, and the manner in which they may or must be met:

(l) setting specifications in relation to the issue and control of official assurances under subpart 3 of Part 2:

(m) specifying matters in relation to the obtaining of official assurances:

(n) specifying performance standards and specifications for recognised persons and recognised agencies, including

requirements as to competencies, experience, and qualifications:

(o) specifying the value to be attributed to any component of a formula of a kind referred to in section 85(b) that determines fees or charges:

(p) specifying records and other information to be kept and returns to be made by any person for the purposes of section 112.

(2) Any notice under subsection (1) must be notified in accordance with section 116.

(3) A notice under subsection (1)(o)—

(a) is to be treated as a regulation for the purposes of the Regulations (Disallowance) Act 1989; but

(b) is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

121 Incorporation of material by reference into regulations, notices, and orders

(1) The following material may be incorporated by reference into any regulations, notice, or order (all 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) If any amendment to or updating of material incorporated by reference under this section is made, that amendment or updating—
  (a) does not take effect unless specified in the instrument concerned; and
  (b) does not take effect until the date specified for that purpose in the instrument concerned.

(5) The Director-General must—
  (a) make available for inspection free of charge, at the head office of the Ministry 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 that material available for purchase, at a reasonable cost, or advise where copies of the material may be obtained.

Repeals, amendments, savings, and transitional provisions

122 Wine Makers Act 1981 repealed

The Wine Makers Act 1981 is repealed, subject to section 129.

123 Wine Makers Levy Act 1976 repealed

(1) The Wine Makers Levy Act 1976 is repealed.

(2) *Amendment(s) incorporated in the Act(s)*.

(3) Nothing in subsection (1) affects any liability arising before the date of commencement of that subsection.

(4) On the commencement of subsection (1), all the rights, and liabilities of the trustee under the Wine Makers Levy Act 1976 are transferred to the Wine Institute of New Zealand Inc (the **Institute**), and for the purpose of exercising any of those rights or dealing with any of those liabilities the Institute (or its successor in title) is deemed to be the same person as the trustee under that Act.

(5) Within 5 working days before the commencement of subsection (1), the trustee under the Wine Makers Levy Act 1976 must transfer all assets held as trustee to the Institute.

124 Alcohol Advisory Council Act 1976 amended

(1) The Alcohol Advisory Council Act 1976 is amended in the manner indicated in Part 1 of Schedule 2 with effect on 1 January 2004.

(2) The Alcohol Advisory Council Act 1976 is amended in the manner indicated in Part 2 of Schedule 2 with effect on the close of 30 June 2004.

125 Food Act 1981 amended

Amendment(s) incorporated in the Act(s).

126 Privacy Act 1993 amended

Amendment(s) incorporated in the Act(s).

127 Customs and Excise Regulations 1996 amended

Amendment(s) incorporated in the regulations.

128 Wine Makers Regulations 1990 revoked

The Wine Makers Regulations 1990 (SR 1990/77) are revoked, subject to section 129.

129 Saving of provisions of Wine Makers Act 1981 and Wine Makers Regulations 1990 as export eligibility requirement regulations, etc

(1) Despite sections 122 and 128, sections 25 and 26 of the Wine Makers Act 1981 and regulations 11 to 17 and forms 12 to 16 of the Schedule of the Wine Makers Regulations 1990 are deemed to continue in force as if they were regulations made under section 119(1)(d) of this Act.

(2) Regulations made under section 119 may amend, revoke, or replace those sections and regulations accordingly.

(3) Any overseas market access requirements notified or made available by the Director-General under section 26A of the Wine Makers Act 1981, and any notices given by the Director-General under that section, are deemed to have been notified or made available by the Director-General under section 41 of this Act.

130 Transitional period for wine standards management plans

(1) Nothing in this Act requires a winemaker or other person to operate under a registered wine standards management plan before the expiry of the transitional period.

(2) Subsection (1) ceases to apply to operations covered by a wine standards management plan once that plan has been registered and has taken effect.

(3) In this section, **transitional period** means the period that commences on the date of commencement of subpart 1 of Part 2 and expires—

(a) 3 years after that date; or

(b) on such other date as may be specified by Order in Council made under subsection (4) or subsection (5).

(4) The Governor-General may by Order in Council make regulations extending the transitional period provided for in subsection (3)(a) (or in subsection (5)) for a further period not exceeding 2 years. The extended transition period may apply to all wine businesses or operations or some classes only of wine businesses or operations.

(5) The Governor-General may by Order in Council, on the recommendation of the Minister after consultation in accordance with section 115, make regulations that specify a shorter transition period than that provided for in subsection (3) or subsection (4). The shorter transition period may apply to all wine businesses or operations or some classes only of wine businesses or operations.

131 Transitional provisions relating to exports and exporters

(1) Nothing in this Act requires any person to be registered as an exporter under subpart 3 of Part 2 until 1 July 2004, and no person commits an offence against this Act by reason merely of a failure to register as an exporter before that date.

(2) Regulations made under this Act may provide for the recognition of certificates issued under section 25 of the Wine Makers Act 1981 as equivalent to requirements for export under this Act, whether or not subject to conditions.

132 Transitional provisions relating to fees

Despite section 86(1)(a), regulations under this Act may set a fee, charge, or levy that applies in the financial year commencing on 1 July 2003, even if the regulations are not made before the commencement of that year.

Schedule 1 s 65

Form of search warrant

Section 65 Wine Act 2003

To every constable

or

[*full name*], a wine officer, *or* [*full name*] constable

I am satisfied on an application in writing made on oath by [*full name*], a wine officer under the Wine Act 2003, that there is reasonable ground for believing that there is (*or* are) at

[*description of place, dwelling house, or marae*]

the following thing (*or* things) which (*or* each of which) is a thing—

- in respect of which an offence against the Wine Act 2003 has been or may have been committed; or
- that is or may be evidence of the commission of an offence against the Wine Act 2003.

[*Description of thing or things and, in respect of each, reference to offence concerned*]

I authorise you to enter and search that place on one occasion at any reasonable time within 14 days of the date of this warrant.

I also authorise you to exercise all of the powers of a wine officer under sections 62 to 68 of the Wine Act 2003 [*or such of those powers as are specified*].

This warrant is issued subject to the conditions specified below (if any)

[*Conditions (if any)*]

Issued at this day of

District Court Judge
(*or* Community Magistrate *or* Justice of the Peace
or Registrar (not being a constable))

Schedule 1: amended, on 1 October 2008, by section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Schedule 2

s 124

Amendments to Alcohol Advisory Council Act 1976

Part 1
Amendments in force on 1 January 2004

Alcohol Advisory Council Act 1976 (1976 No 143)

Amendment(s) incorporated in the Act(s).

Part 2
Amendments in force on 30 June 2004

Alcohol Advisory Council Act 1976 (1976 No 143)

Amendment(s) incorporated in the Act(s).

Contents

1 General
2 Status of reprints
3 How reprints are prepared
4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
5 List of amendments incorporated in this reprint (most recent first)

Notes

1 General

This is a reprint of the Wine Act 2003. The reprint incorporates all the amendments to the Act as at 1 October 2008, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see*

http://www.pco.parliament.govt.nz/editorial-conventions/ or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)

- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 List of amendments incorporated in this reprint (most recent first)

Policing Act 2008 (2008 No 72): section 116(a)(ii)
Wine Amendment Act 2005 (2005 No 119)
Wine Act Commencement Order 2005 (SR 2005/28)

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