

Reprint
as at 11 December 2015



Wine Amendment Regulations 2015 (LI 2015/97)

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 11th day of May 2015

Present:

The Right Hon John Key presiding in Council

Pursuant to sections 88, 89, 92, and 119 of the Wine Act 2003, His Excellency the Governor-General makes the following regulations, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Food Safety after being satisfied that the requirements of sections 84 and 86 of that Act have been met.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry for Primary Industries.

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Regulations

1 Title

These regulations are the Wine Amendment Regulations 2015.

2 Commencement

These regulations come into force on 1 July 2015.

Regulations: confirmed, on 11 December 2015, by section 17 of the Subordinate Legislation (Confirmation and Validation) Act 2015 (2015 No 119).

3 Principal regulations

These regulations amend the Wine Regulations 2006 (the **principal regulations**).

4 Regulations 15 to 17 and cross-heading replaced

Replace regulations 15 to 17 and the cross-heading above regulation 15 with:

Fees, charges, and levies

15 Fees, charges, and levies

- (1) The fees and charges set out in Schedule 1 and the levies set out in Schedule 2 are payable in respect of the matters to which they relate.
- (2) The fees, charges, and levies are exclusive of goods and services tax.

16 When fees, charges, and levies payable

The fees and charges set out in Schedule 1 and the levies set out in Schedule 2 are payable—

- (a) on receipt of the relevant notification, on the making of the relevant application, or on the performance of the relevant service, as the case may require; or
- (b) in the case of fees payable annually and levies, within 1 month (or within such longer period as the Director-General may allow) after receipt of a written demand for the appropriate amount from the Director-General.

17 Director-General may grant exemption, waiver, or refund

- (1) The Director-General may grant an exemption from, or may waive or refund, any fee or charge set out in Schedule 1 or levy set out in Schedule 2, in whole or in part, in any particular case or class of case.
- (2) The power conferred by subclause (1) includes power to grant an exemption, waiver, or refund in any of the circumstances described in section 82Z(1)(a) to (c) of the Act.

5 Schedule replaced

Replace the Schedule with the Schedules 1 and 2 set out in the Schedule of these regulations.

Schedule New Schedules 1 and 2

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Schedule 1 Fees and charges

rr 15–17

Part 1 Fees and charges

	Matter for which fee or charge payable	Fee or charge*	Fee or charge payable by
1	Notification for an exemption under regulation 5A from operating under a registered wine standards management plan	\$155 per notification Plus assessment charge on hourly basis after the first hour, as specified in Part 2	The notifying winemaker
2	Notification of change in operator's recognised verifying agency under section 13(f) of Act	\$77.50 per notification Plus assessment charge on hourly basis after the first 30 minutes, as specified in Part 2	The operator of a wine standards management plan
3	Application based solely on template approved by Director-General for registration of wine standards management plan in accordance with section 18 of Act	\$155 per application Plus assessment charge on hourly basis after the first hour, as specified in Part 2	The applicant
4	Application not based solely on template approved by Director-General for registration of wine standards management plan in accordance with section 18 of Act	\$155 per application Plus assessment charge on hourly basis after the first hour, as specified in Part 2	The applicant
5	Application for registration of significant amendment to wine standards management plan under section 22 of Act	\$77.50 per application Plus assessment charge on hourly basis after the first 30 minutes, as specified in Part 2	The applicant
6	Notification for registration of a minor amendment to wine standards management plan under section 23 of Act	\$77.50 per notification Plus assessment charge on hourly basis after the first 30 minutes, as specified in Part 2	The operator of a wine standards management plan
7	Application under section 48 of Act for registration as exporter	\$155 per application Plus assessment charge on hourly basis after the first hour, as specified in Part 2	The applicant
8	Inspection and other individual-focused	\$155 per inspection or activity	The person who is the subject of the inspection or other compliance activities

	compliance activities carried out by wine officer under Part 3 of Act	Plus assessment charge on hourly basis after the first hour, as specified in Part 2	
9	Application for recognition of agency, person, or class of persons under section 71, 73, or 75 of Act	\$155 per application Plus assessment charge on hourly basis after the first hour, as specified in Part 2	The applicant
10	Verifications and audits by the Ministry further to its recognition under section 72(1) of Act as a recognised agency	\$155 per verification or audit Plus assessment charge on hourly basis after the first hour, as specified in Part 2	The person who is verified or audited
11	Ongoing recognition fee under section 82F of Act	\$155, payable annually Plus assessment charge on hourly basis after the first hour, as specified in Part 2	The agency or person recognised
12	Performance or exercise of a function, duty, or power that is—	\$77.50 Plus assessment charge on hourly basis after the first 30 minutes, as specified in Part 2	The person whose actions resulted in the function, duty, or power being required to be performed or exercised
	(a) required to be undertaken under the Act, including under any regulations or notices; and		
	(b) not prescribed elsewhere in these regulations		

*Fee or charge exclusive of any applicable costs payable under Part 3 or 4

Part 2

Assessment charges on hourly basis

Where Part 1 specifies an assessment charge on an hourly basis, that charge is to be determined as follows for each hour (or final part-hour) beyond the first 30 minutes or the first hour, as the case may be, spent on assessing the matter concerned:

Category	Fee
(a) for each hour (excluding final part-hour) spent by a person (whether or not employed by the Ministry)	\$155.00
(b) for each 15-minute block in final part-hour spent under paragraph (a)	\$38.75

Part 3

Costs incurred by Ministry

- Actual and reasonable costs, including actual and reasonable incidental and additional costs incurred by a Ministry employee, or a person engaged by the Ministry who is not an employee, may be recovered by the Ministry where those costs arise from a request by, or an act or omission of, any person under the Act or regulations or notices made under the Act.

- 2 The costs in clause 1 include, but are not limited to,—
- (a) the costs of external review, expert review, notification, product testing, travel, and accommodation; and
 - (b) disbursements such as the costs of photocopying, printing and stationery, telephone, fax, video conferencing, postage, and couriers.
- 3 For technical staff providing support for the delivery of specialist services in relation to functions, duties, or powers under the Act or any regulations or notices made under the Act, a fee of \$155 per hour is payable, in 15-minute increments, by the person whose actions result in the function, duty, or power being required to be performed or exercised.

Part 4

Travel costs

Where travel of a Ministry employee, or a person engaged by the Ministry who is not an employee, is required for any of the matters specified in Parts 1, 2, and 3, an additional amount of \$0.67 per kilometre travelled by the employee or person is payable in addition to the relevant fee or charge.

Schedule 2

Levies

rr 15–17

Preliminary provisions

- 1 The levies set out in this schedule are payable by each wine business that exports wine.
- 2 However, no levy is payable on the first 200 000 litres of wine exported by a wine business in a financial year.

Matters for which levy payable

For—	Levy
	\$0.01 per litre
(a) setting standards, specifications, and requirements relating to export eligibility requirements for the purposes of subparts 2 and 3 of Part 2 of the Act; and	
(b) notifying or making available access requirements for overseas markets in accordance with section 41 of the Act; and	
(c) wine export certification, including—	
(i) determining, in accordance with export eligibility requirements specified in a notice made under sections 38 and 120 of the Act, whether wine is eligible for export:	
(ii) issuing, in accordance with export eligibility requirements specified in a notice made under sections 38 and 120 of the Act, export eligibility approvals:	

- (iii) issuing official assurance in accordance with section 42 of the Act; and
- (d) compliance and systems audit activities related to export and carried out under Part 3 of the Act

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations come into force on 1 July 2015. They amend the Wine Regulations 2006 (the **principal regulations**) and prescribe new fees, charges, and levies payable in respect of matters under the Wine Act 2003 (the **Act**).

Regulation 1 relates to the Title.

Regulation 2 provides that the regulations come into force on 1 July 2015.

Regulation 3 states the Title of the principal regulations.

Regulation 4 replaces regulations 15 to 17 and the cross-heading above regulation 15 of the principal regulations.

New regulation 15 provides that the fees, charges, and levies are set out in the *new Schedules 1 and 2*, are payable, and are GST exclusive.

New regulation 16 sets out when the fees, charges, and levies are payable.

New regulation 17 authorises the Director-General to grant an exemption from, or to waive or refund, any fee, charge, or levy. This power includes power to grant an exemption, waiver, or refund in any of the circumstances described in section 82Z(1)(a) to (c) of the Act (which concern an application made under section 77 of the Act by 1 person for more than 1 type of recognition, an application made under section 82C of the Act by 1 person to renew more than 1 type of recognition, and 1 person being liable under section 82F of the Act to pay a prescribed fee, charge, or levy for on-going recognition under more than 1 of sections 71 to 75 of the Act).

Regulation 5 replaces the Schedule in the principal regulations with *new Schedules 1 and 2*.

New Schedule 1 prescribes the fees and charges payable under these regulations and who is responsible for paying them. The fees and charges include—

- a fee for 11 types of application, registration, recognition, and processing processes:
- a fee for the performance or exercise of a function, duty, or power required to be undertaken under the Wine Act 2003 and not prescribed elsewhere in the regulations:

- actual and reasonable costs, including actual and reasonable incidental and additional costs incurred by a Ministry employee, or a person engaged by the Ministry who is not an employee, such as the costs of external review, expert review, product testing, travel and accommodation, and also the costs of disbursements for the functions referred to in the schedule.

New Schedule 2 prescribes the levies payable under these regulations and who is responsible for paying them.

These regulations will be treated as having been revoked with the close of 30 June 2016 unless they are confirmed by an Act of Parliament passed on or before that day (*see* section 96 of the Act).

Regulatory impact statement

The Ministry for Primary Industries produced a regulatory impact statement on 18 March 2015 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <http://mpi.govt.nz/law-and-policy/legal-overviews/regulatory-impact-statements/etc>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 14 May 2015.

Reprints notes

1 *General*

This is a reprint of the Wine Amendment Regulations 2015 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Subordinate Legislation (Confirmation and Validation) Act 2015 (2015 No 119): section 17