

THE WINE MAKERS REGULATIONS 1990

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 2nd day of April 1990

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 31 of the Wine Makers Act 1981, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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- 2. Interpretation
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- 6. Issue of licence
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- Export of New Zealand Wine
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REGULATIONS

- 1. Title and commencement—(1) These regulations may be cited as the Wine Makers Regulations 1990.
 - (2) These regulations shall come into force on the 6th day of April 1990.
- **2. Interpretation**—(1) In these regulations, unless the context otherwise requires,—

"The Act" means the Wine Makers Act 1981:
"Analyst" means a person appointed to be an analyst pursuant to section 7 of the Food Act 1981:

"Certificate of compliance", in relation to any consignment or kind of wine, means a certificate under and for the purposes of section 25 of the Act to the effect that the wine complies with all the provisions of the Food Regulations 1984* relating to the composition of wine, so far as they would be applicable to that wine if it were offered for sale in New Zealand, and is free from obvious fault:

"Medical Officer of Health" means a Medical Officer of Health appointed under the Area Health Boards Act 1983 by an area health board; and includes any Deputy Medical Officer of Health:

A reference to a numbered form is a reference to the form so numbered in the Schedule to these regulations.

(2) Wines are of a different kind for the purposes of these regulations if—

- (a) They are of different types; or
- (b) They are made by different licensees; or
- (c) They are of different vintages.
- **3. Forms**—(1) The forms set out in the Schedule to these regulations are the forms to be used in respect of the several matters to which those forms relate.
- (2) Such variations may be made in any form as the circumstances of any particular case may require.
- 4. Fees—(1) The following fees shall be payable on making application under the Act: \$
 - (a) On making application for the grant, renewal, transfer, or removal of a wine maker's licence 100
 - (b) On making application for consent to the use by any other person of any part of any premises or equipment of the holder of a wine maker's licence for any kind of wine or other liquor not authorised by the licence
- (2) Except as provided in subclause (3) of this regulation, the fees prescribed by subclause (1) of this regulation shall be payable to the Licensing Authority.
- (3) The fee payable on application for the renewal of a licence shall be payable to the District Licensing Agency, which shall pay to the Licensing Authority, out of that fee, the sum of \$20.
- (4) The fees set out in this regulation are inclusive of goods and services tax under the Goods and Services Tax Act 1985.

Licences and Permits

- **5. Application for licence**—(1) Every application for a grape wine licence shall be in form 1.
 - (2) Every application for a fruit wine licence shall be in form 2.
- (3) In respect of any application for a wine maker's licence, the Licensing Authority may call for such further reports or additional information as it thinks fit to enable it to determine the application.
- (4) Without limiting subclause (3) of this regulation, in any case to which subsection (3) of section 4, or subsection (4) of section 9, of the Act applies, the Licensing Authority may call for such further reports or additional information as it thinks fit to enable it to determine whether or not it should exercise any discretion conferred on it by that subsection.
- **6. Issue of licence**—Whenever the Licensing Authority grants any application for a wine maker's licence, it shall issue the licence in form 3 or form 4, as the case may require.
- **7. Renewal of licence**—(1) Every application for the renewal of a wine maker's licence shall be in form 5.
- (2) Every notification of the renewal of a wine maker's licence shall be in form 6.
- (3) In respect of any application for the renewal of a wine maker's licence, the Chairperson of the District Licensing Agency may call for such further reports or additional information as the Chairperson thinks fit relating to any matter referred to or specified in section 12 (4) of the Act.
- **8. Transfer of licence**—(1) Every application for the transfer of a wine maker's licence shall be in form 7.
- (2) Every such application shall be filed, together with 3 copies, with the Secretary of the Licensing Authority.
- (3) The Secretary shall send 1 copy of the application to the Police, and 1 copy to the Medical Officer of Health for the district in which the premises are situated.
- (4) The Police and the Medical Officer of Health shall report in respect of the application.
- (5) In respect of any application for the transfer of any wine maker's licence, the Chairperson of the Licensing Authority may call for such further reports or additional information as the Chairperson thinks fit to enable the Chairperson to determine the application.
- **9. Removal of licence**—(1) Every application for the removal of a wine maker's licence shall be in form 8.
- (2) Where the Licensing Authority grants any application for the removal of a wine maker's licence, it may either make the order for removal immediately or notify the applicant that the application has been granted and that the order will be made when the requirements (if any) of the Licensing Authority (being requirements lawfully imposed) have been complied with.
- (3) Whenever the Licensing Authority makes an order for the removal of a wine maker's licence, it shall send the order to the Chairperson of the District Licensing Agency for the district in which the present premises are situated.
- (4) On being satisfied that the Licensing Authority's requirements (if any) have been complied with or that provision for compliance with those requirements has been made to the satisfaction of the District Licensing

Agency, the Chairperson of the District Licensing Agency shall endorse the licence in form 9.

(5) If the present premises and the new premises are in different districts, a copy of the licence so endorsed, together with such other documents as the Secretary thinks fit, shall be sent to the Secretary of the District Licensing Agency for the district in which the new premises are situated.

(6) When the licence is so endorsed, it shall have the same effect as if it had been granted in respect of the premises to which it is so removed.

10. Consent to use of premises—(1) Every application for the Licensing Authority's consent to the use of any part of the premises or equipment of the holder of a wine maker's licence for the making of any kind of wine or other liquor that is not authorised by the licence shall be in form 10 and shall be supported by a statutory declaration, made by the person who desires to use the premises or equipment, setting out the grounds on which the application is made.

(2) The application shall be accompanied by 3 copies of the application

and of the declaration in support.

(3) The Secretary of the Licensing Authority shall send a copy of each to—

(a) The Police; and

(b) The Medical Officer of Health.

(4) Except where the matter is to be dealt with on the papers, the Secretary shall inform the Police and the Medical Officer of Health of the time and place appointed for the hearing of the application.

(5) Any consent under this regulation may be granted for such period as the Licensing Authority thinks necessary, and the period may be extended

from time to time in the Licensing Authority's discretion.

(6) The consent shall be in form 11, and any extension of the period shall be noted on the consent together with the date and the signature of the Chairperson.

(7) On any application for its consent under this regulation, the Licensing Authority may call for such further reports or additional information as it thinks fit to satisfy itself of the matters specified in section 16 (2) of the Act.

Export of New Zealand Wine

11. Certificate of compliance—(1) Every application for a certificate of compliance shall be in form 12, and addressed to the Director.

- (2) Where a certificate of compliance is sought in respect of a particular consignment of wine, the applicant shall supply to the Director, or permit the Director to take, such number of samples from the consignment as may be reasonable to enable the Director—
 - (a) To satisfy himself or herself that the samples are truly representative of the consignment; and
 - (b) To have carried out all such analyses or tests as may be required to determine whether or not a certificate of compliance should be issued in respect of the consignment.
- (3) Where a certificate of compliance is sought in respect of a particular kind of wine, the applicant shall supply to the Director, or permit the Director to take, such number of samples of the wine as may be reasonable to enable the Director—
 - (a) To satisfy himself or herself that the samples are truly representative of wine of that kind; and

- (b) To carry out all such analyses or tests as may be required to determine whether or not a certificate of compliance should be issued in respect of wine of that kind.
- (4) In any case to which subclause (3) of this regulation applies, the applicant shall also supply to the Director sufficient particulars of the applicant's equipment, production control methods, records, and other matters as may be necessary to enable the Director to satisfy himself or herself that all wine of the kind to which the application relates, whether made before or after the date of the application, conforms or will conform to the samples supplied under that subclause.
 - (5) Every certificate of compliance shall be in form 13.
- 12. Analysis and assessment of samples—(1) For the purposes of determining an application for a certificate of compliance, the Director shall submit such of the samples obtained by the Director under regulation 11 of these regulations as the Director considers necessary to—
 - (a) An analyst, who shall report to the Director as to whether or not the wine complies with all the provisions of the Food Regulations 1984* relating to the composition of wine, so far as they would be applicable to that wine if it were offered for sale in New Zealand: and
 - (b) To 3 assessors, being persons appointed by the Director because of their technical knowledge of wine making, who shall report to the Director as to whether or not the wine is free from obvious fault.
- (2) The applicant, but no other person, shall be entitled to receive a copy of the analyst's report and a copy of the assessor's report.
- (3) After considering the reports, the Director shall determine whether or not to issue a certificate of compliance in respect of the consignment or kind of wine to which the application relates.
- (4) If the Director determines not to issue a certificate of compliance, the Director shall notify the applicant, in writing,—
 - (a) Of that decision and the reasons for it; and
 - (b) Where the Director has determined that the wine is not free from obvious fault, of the applicant's right to have that decision reviewed under section 25 (2) of the Act and regulation 13 of these regulations.
- 13. Review of Director's decision—(1) Where the Director refuses to issue a certificate of compliance on the ground that the wine is not free from obvious fault, the applicant may, within 28 days after being notified of the Director's decision, file with the Director a notice of review in form 14.
- (2) On receipt of a notice of review, the Director shall forthwith forward it, together with a copy of the decision under review and of the assessor's report, to—
 - (a) The Wine Institute, in the case of grape wine; or
 - (b) Such person as the Minister of Justice may from time to time direct, in the case of kiwifruit wine.
- (3) For the purposes of such a review relating to any grape wine, the Wine Institute shall from time to time appoint a panel of at least 3 persons who, in the opinion of the Wine Institute, have sufficient knowledge and experience to enable them to conduct such a review satisfactorily.

(4) For the purposes of such a review relating to any kiwifruit wine, the Minister of Justice shall from time to time appoint a panel of at least 3 persons who, in the opinion of the Minister, have sufficient knowledge and experience to enable them to conduct such a review satisfactorily.

(5) The reviewing panel shall afford the applicant a reasonable opportunity to make oral or written submissions in support of the

application.

(6) The applicant shall supply to the reviewing panel, or allow the reviewing panel to take, all such samples of the wine to which the application relates as may be necessary to enable the reviewing panel to conduct the review.

(7) If, after conducting such a review, the reviewing panel is satisfied that the Director's decision to refuse a certificate was correct, it shall notify the

applicant and the Director accordingly.

- (8) If, after conducting such a review, the reviewing panel is satisfied that the Director's decision was wrong and that the wine is free from obvious fault, it shall notify the applicant accordingly, and shall issue a directive in form 15 requiring the Director to issue a certificate of compliance unless the Director is not satisfied that the wine complies with all the provisions of the Food Regulations 1984* relating to the composition of wine, so far as they would be applicable to that wine if it were offered for sale in New Zealand.
- 14. Export consignments to bear appropriate document—(1) Every consignment of wine in respect of which a certificate of compliance has been issued shall bear a copy of that certificate when the consignment is entered for export in accordance with section 64 of the Customs Act 1966.

(2) Every consignment of wine of a kind in respect of which a certificate of compliance has been issued shall bear a statement in form 16 when the

consignment is so entered for export.

- (3) Where a consignment includes 2 or more kinds of wine, the relevant provisions of this regulation shall be complied with in respect of each kind of wine included in the consignment.
- 15. Director may require further samples from time to time—Where a certificate of compliance has been issued in respect of wine of a particular kind, the maker of the wine and every other person who has any wine of that kind in his or her possession for the purposes of export, shall from time to time, on demand by the Director, supply to the Director, or permit the Director to take, all such samples of the wine as may be necessary to enable the Director to satisfy himself or herself that the certificate of compliance should continue in force.
- 16. Revocation of certificate of compliance—(1) The Director may revoke a certificate of compliance at any time if the Director is satisfied that the consignment or kind of wine in respect of which the certificate was given—
 - (a) No longer complies with all the provisions of the Food Regulations 1984* relating to the composition of wine, so far as they would be applicable to that wine if it were offered for sale in New Zealand; or
 - (b) Is no longer free from obvious fault.

- (2) In any case where the Director revokes a certificate of compliance, the provisions of regulations 12 (4) and 13 of these regulations shall apply, so far as they are applicable and with the necessary modifications, as if the Director had refused to issue the certificate of compliance.
- (3) The revocation of a certificate of compliance shall be of no effect in respect of any wine that has been entered for export before that revocation.
- 17. Offences—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$200 who—
 - (a) Exports any consignment of wine that does not bear the certificate or statement required by regulation 14 of these regulations; or
 - (b) Obstructs the Director, or any person acting on the Director's behalf, in the exercise of his or her powers under these regulations; or
 - (c) Causes or permits any copy of an analyst's report or a certificate of compliance furnished for the purposes of the Act or these regulations to be used in any advertisement.
- 18. Revocations and savings—(1) The following regulations are hereby revoked:
 - (a) The Wine Makers Regulations 1982:
 - (b) The Wine Makers Regulations 1982, Amendment No. 1:
 - (c) The Wine Makers Regulations 1982, Amendment No. 2.
- (2) The revocation by subclause (1) of this regulation of the Wine Makers Regulations 1982 shall not affect the amendment made by regulation 19 of those regulations to the Food Hygiene Regulations 1974*.

*S.R. 1974/169

Reg. 3

SCHEDULE

PRESCRIBED FORMS

Reg. 5 (1)

Form 1
APPLICATION FOR GRANT OF GRAPE WINE LICENCE

Section 8. Wine Makers Act 1981

I, [Full name, address, and occupation], hereby apply for the grant of a grape wine licence to make wine on the premises situated at [Full address of premises].

I hereby declare—

- (a) That I am not the holder of, nor have I applied for, a fruit wine licence in respect of the premises to which this application relates:
- (b)*That I am not the holder of, nor have I applied for, a grape wine licence or a fruit wine licence in respect of any other premises:

or

*That I am the holder of (or have applied for) such a licence in respect of the following premises:

[Full address of premises]	
(ii) Fruit wine licence— [Full address of premises]	
Dated at this	day of
19	
	Applicant.

To: The Secretary,

Liquor Licensing Authority,

Wellington.

NOTE: This application is to be accompanied by 3 copies.

*Delete whichever is inapplicable

Form 2

Reg. 5 (2)

APPLICATION FOR GRANT OF FRUIT WINE LICENCE Section 8, Wine Makers Act 1981

- I, [Full name, address, and occupation], hereby apply for the grant of a fruit wine licence to make wine of the following kind(s), namely: [State separately the kinds of fruit wine (including cider and perry), and the kinds of vegetable wine, intended to be made] on the premises situated at [Full address of premises]. I hereby declare—
 - (a) That I am not the holder of, nor have I applied for, a grape wine licence in respect of the premises to which this application
 - (b)*That I am not the holder of, nor have I applied for, a grape wine licence or a fruit wine licence in respect of any other premises:

or
*That I am the holder of (or have applied for) such a licence in respect of the following premises:
(i) Grape wine licence—
[Full address of premises]
(ii) Fruit wine licence—
[Full address of premises]
[1 the thinkes of premises]
Dated at this day of
19

Applicant.
To: The Secretary,
Liquor Licensing Authority,
Wellington.
Note: This application is to be accompanied by 3 copies.

*Delete whichever is inapplicable

Reg. 6

Form 3

GRAPE WINE LICENCE

Section 5, Wine Makers Act 1981

PURSUANT to the Wine Makers Act 1981, [Full Name] is hereby authorised to make on the premises situated at [Full address of premises], during the year of the currency of this licence, wine from grapes grown in New Zealand.

Subject to the provisions of this Act, this licence continues in force until the close of the 30th day of June next following its issue, and may from time to time be renewed by the Chairperson of the District Licensing Agency for a period of 12 months from the time when the licence or the last preceding renewal of the licence expires.

1 0	
Dated at this day	y of
19	
••••	Chairmaran of the
ī	Chairperson of the iquor Licensing Authority.
	aquor Licensing Authority.
Reg. 6 Form 4	
FRUIT WINE LICENCE	
Section 6. Wine Makers Act	1981
PURSUANT to the Wine Makers Act 1981, [Full na make on the premises situated at [Full address of the currency of this licence, fruit (and vegetal kind(s) from fruit (and/or vegetables) grown in [State separately the kinds of fruit wine (including of vegetable wine, intended to be made]. Subject to the provisions of the Act, this licer the close of the 30th day of June next following time to time be renewed by the Chairperson Agency for a period of 12 months from the time last preceding renewal of the licence expires.	premises], during the year of ble) wine of the following New Zealand: cider and perry), and the kinds nee continues in force until ng its issue, and may from a of the District Licensing ne when the licence or the
Dated at day 19	y of
	Chairperson of the

Liquor Licensing Authority.

${\bf SCHEDULE-} continued$

Form 5

Reg. 7 (1)

APPLICATION FOR	REN	EWAL	OF	WINE	MAKER	's LICENCE
Section	12,	Wine	Ma	kers Ac	t 1981	

I, [Full name, address,	, and occupation], hereby apply for the renewal of	of the
[Specify grape or fruit]	wine licence held by me in respect of the pre	mises
situated at [Full addre	ess of premises].	

[Specify grape or fruit] wine licence held by me in respect of the premises situated at [Full address of premises].
Dated at day of
Applicant.
To: The Secretary of the District Licensing Agency,
Form 6 Reg. 7 (2)
NOTICE OF RENEWAL OF WINE MAKER'S LICENCE
Section 12, Wine Makers Act 1981
You are hereby notified that, pursuant to the Wine Makers Act 1981, the Chairperson of the District Licensing Agency has granted your application for the renewal of your [Specify grape or fruit] wine licence in respect of the premises situated at [Full address of premises]. Subject to the payment of the prescribed fee, this notification has the effect of renewing the licence for a period of 12 months from the time when the licence or the last renewal thereof expires.
Dated at day of
Secretary of the District Licensing Agency.

Reg. 8 (1)

Form 7

APPLICATION FOR TRANSFER OF WINE MAKER'S LICENCE Section 13, Wine Makers Act 1981

I, [Full name, address, and occupation], hereby apply for the transfer to me of the [Specify grape or fruit] wine licence held by [Full name of licensee] in respect of the premises situated at [Full address of premises].

I will, if the licence is transferred to me, carry on the business conducted

under the licence.

I hereby declare-

- (a) That I am not the holder of, nor have I applied for, a [Specify fruit or grape] wine licence in respect of the premises to which the application relates:
- (b) *That I am not the holder of, nor have I applied for, any wine maker's licence in respect of any other premises:

*That I am the holder of (or have applied for) such a licence in respect of

the following premises: (i) Grape wine licence—	
[Full address of premises]	
(ii) Fruit wine licence— [Full address of premises]	
	or endorsement if this application is
Dated at this 19	day of
To: The Secretary, Liquor Licensing Authority, Wellington.	Applicant.
NOTE: This application is to be acco	ompanied by 3 copies.

*Delete whichever is inapplicable

Form 8

Reg. 9 (1)

APPLICATION FOR REMOVAL OF WINE MAKER'S LICENCE Section 14, Wine Makers Act 1981

I, [Full name], being the holder of a [Specify grape or fruit] licence in force in respect of the premises situated at [Full address of premises], hereby apply for an order removing the said licence to premises (or proposed premises to be) situated at [Full address of premises].

be) situated at [Full address of premises]. I hereby declare that I am not the holder of, nor have I applied for, a [Specify fruit or grape] wine maker's licence in respect of the new premises.
Dated at day of
Applicant.
To: The Secretary, Liquor Licensing Authority, Wellington.
NOTE: This application is to be accompanied by 3 copies.
Form 9 Reg. 9 (4)
Endorsement of Removal of Wine Maker's Licence
Section 14, Wine Makers Act 1981
Pursuant to the Wine Makers Act 1981, this licence has been removed to the premises situated at [Full address of premises].
Dated at day of
Chairperson of the
Countersigned:
Secretary of the District Licensing Agency.

Reg. 10(1)

Form 10

Application for Consent to Use of Wine Maker's Premises or Equipment

Chairperson of the Liquor Licensing Authority.

Form 12

Reg. 11 (1)

APPLICATION FOR CERTIFICATE OF COMPLIANCE

Section 25, Wine Makers Act 1981

Section	i 25, vvine makers Act 1981	
I, [Full name, address, and compliance under and for Act 1981 in respect of the [State particulars of wine, it	the purposes of section 25	of the Wine Makers kind) of wine:
Dated at this	s day of	19
	Applica	nt.
To: The Director, Division of Public Hea Department of Health	•	
No	Form 13	Reg. 11 (5)
Cer	TIFICATE OF COMPLIANCE	
Section	n 25, Wine Makers Act 1981	
This is to certify that [State consignment or kind of wine to provisions of the Food Re wine, so far as they would sale in New Zealand, and it	which the application relates] gulations 1984* relating to be applicable to that wine	complies with all the the composition of
Dated at thi	s day of	19
	Director, Division of Public Health Department of Health New Zealand.	

*S.R. 1984/262

Reg. 13 (1)

Form 14

NOTICE OF REVIEW Section 25, Wine Makers Act 1981

	entify it, the consignment or kind ound that, in the Director's o lt.	
Dated at thi	is day of	19
	Applicant	
		
Reg. 13 (8)	Form 15	
	TOR TO ISSUE CERTIFICATE OF n 25, Wine Makers Act 1981	COMPLIANCE
you refused to issue to [Formula to compliance under and for Act 1981 in respect of [Standard for the consignment or kind of wine the in your opinion, the wine And whereas we have rewine is free from obvious	ereby direct you to issue to	tion] a certificate of of the Wine Makers are to identify it, the on the ground that, fault: re satisfied that the
Dated at thi	is day of	19
		or and on behalf of he reviewing panel.

To: The Director, Division of Public Health, Department of Health.

Form 16

Reg. 14 (2)

STATEMENT OF CONSIGNMENT OF WINE OF KIND IN RESPECT OF WHICH CERTIFICATE OF COMPLIANCE HAS BEEN ISSUED

Section 25, Wine Makers Act 1981

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						Expo	rter.

C. J. HILL, for Clerk of the Executive Council.

*S.R. 1984/262

EXPLANATORY NOTE

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

These regulations are a consolidation and revision of the Wine Makers Regulations 1982, consequent upon the enactment of the Sale of Liquor Act 1989.

Issued under the authority of the Acts and Regulations Publication Act 1989. Date of notification in *Gazette*: 5 April 1990.

These regulations are administered in the Department of Justice.