

Version
as at 1 July 2022



Wine Amendment Regulations 2019

(LI 2019/125)

Wine Amendment Regulations 2019: revoked, on 1 July 2022, pursuant to regulation 131(a) of the Wine Regulations 2021 (SL 2021/401).

Patsy Reddy, Governor-General

Order in Council

At Wellington this 27th day of May 2019

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 88, 89, 92, and 119 of the Wine Act 2003—

- (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.

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal regulations	2

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These regulations are administered by the Ministry for Primary Industries.

4	New regulation 3A inserted (Transitional, savings, and related provisions)	2
	3A Transitional, savings, and related provisions	2
5	Regulation 15 amended (Fees, charges, and levies)	3
6	New regulation 15A inserted (Levies)	3
	15A Levies	3
7	Regulation 16 amended (When fees, charges, and levies payable)	4
8	Regulation 17 amended (Director-General may grant exemption, waiver, or refund)	4
9	New Schedule 1AA inserted	4
10	Schedule 1 amended	4
11	Schedule 2 replaced	4
	Schedule 1	5
	New Schedule 1AA inserted	
	Schedule 2	6
	Parts 1 and 2 of Schedule 1 replaced	
	Schedule 3	8
	Schedule 2 replaced	

Regulations

1 Title

These regulations are the Wine Amendment Regulations 2019.

2 Commencement

These regulations come into force on 1 July 2019.

Regulations: confirmed, on 20 December 2019, by section 20 of the Subordinate Legislation Confirmation Act 2019 (2019 No 82).

3 Principal regulations

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

4 New regulation 3A inserted (Transitional, savings, and related provisions)

After regulation 3, insert:

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

5 Regulation 15 amended (Fees, charges, and levies)

In regulation 15(1), replace “set out in Schedule 2” with “notified under regulation 15A(3)”.

6 New regulation 15A inserted (Levies)

After regulation 15, insert:

15A Levies

- (1) A levy is payable in respect of the matters set out in Schedule 2 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.
- (3) The Director-General may by notice in the *Gazette* set the rate of the levy on the basis of the following formula (subject to subclause (5)):

$$a \div b$$

where—

- a is an estimate of the costs for the forthcoming financial year, as adjusted, under subclause (4)
 - b is an estimate of the total volume of leviable wine that will be exported in the forthcoming financial year by wine businesses that export over 200,000 litres of wine per year.
- (4) The estimated costs referred to in subclause (3) may be adjusted to take into account—
 - (a) any estimated shortfall in recovery, or any estimated over-recovery, of the costs for any of the preceding 4 financial years; and
 - (b) any actual shortfall in recovery, or any actual over-recovery, of the costs for any of the preceding 4 financial years so far as the shortfall remains to be recovered, or the over-recovery remains to be allowed for.
 - (5) The Director-General must not set the rate of the levy in excess of \$0.011 per litre of wine per exporter.
 - (6) The rate of the levy notified under subclause (3) applies to the forthcoming financial year and all subsequent years until the notice is revoked or replaced.
 - (7) In this regulation,—

costs means the costs of the matters set out in Schedule 2

leviable wine means the volume of wine exported by a wine business in a financial year other than the first 200,000 litres.
 - (8) *See* Schedule 1AA.

7 Regulation 16 amended (When fees, charges, and levies payable)

In regulation 16, replace “set out in Schedule 2” with “notified under regulation 15A(3)”.

8 Regulation 17 amended (Director-General may grant exemption, waiver, or refund)

In regulation 17(1), replace “set out in Schedule 2” with “notified under regulation 15A(3)”.

9 New Schedule 1AA inserted

Insert the Schedule 1AA set out in Schedule 1 of these regulations as the first schedule to appear after the last regulation of the principal regulations.

10 Schedule 1 amended

- (1) In Schedule 1, replace Parts 1 and 2 with the Parts 1 and 2 set out in Schedule 2 of these regulations.
- (2) In Schedule 1, Part 3, clause 3, replace “\$155” with “\$135”.

11 Schedule 2 replaced

Replace Schedule 2 with the Schedule 2 set out in Schedule 3 of these regulations.

Schedule 1
New Schedule 1AA inserted

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Schedule 1AA
Transitional, savings, and related provisions

r 3A

Part 1
Provision relating to Wine Amendment Regulations 2019

1 Rate of levy

- (1) Until the rate of the levy referred to in regulation 15A is notified under regulation 15A(3), the rate of the levy—
 - (a) is prescribed at \$0.01 per litre of wine exported; and
 - (b) must be treated as being notified under regulation 15A(3).
- (2) The rate of the levy prescribed under subclause (1)(a) applies to the 2019 financial year and all subsequent years until a new rate is notified under regulation 15A(3).

Schedule 2

Parts 1 and 2 of Schedule 1 replaced

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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	\$135 per notification	The notifying winemaker
2 Notification of change in operator's recognised verifying agency under section 13(f) of Act	\$67.50 per notification	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	\$135 per application	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	\$135 per application	The applicant
5 Application for registration of significant amendment to wine standards management plan under section 22 of Act	\$67.50 per application	The applicant
6 Notification for registration of a minor amendment to wine standards management plan under section 23 of Act	\$67.50 per notification	The operator of a wine standards management plan
7 Application for registration as exporter under section 48 of Act	\$135 per application	The applicant
8 Inspection and other individual-focused compliance activities carried out by wine officer under Part 3 of Act	\$135 per inspection or activity plus assessment charge on hourly basis after the first 30 minutes, as specified in Part 2	The person who is the subject of the inspection or other compliance activities
9 Application for recognition of agency, person, or class of persons under section 71, 73, or 75 of Act	\$135 per application	The applicant
10 Verifications and audits by the Ministry further to its recognition under section 72(1) of Act as a recognised agency	\$135 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	\$135 payable annually	The agency or person recognised

Matter for which fee or charge payable	Fee or charge*	Fee or charge payable by
12 Performance or exercise of a function, duty, or power that is— (a) required to be undertaken under the Act, including under any regulations or notices; and (b) not prescribed elsewhere in these regulations	\$67.50 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

*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)	135.00
(b) for each 15-minute block in final part-hour spent under paragraph (a)	33.75

Schedule 3

Schedule 2 replaced

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Schedule 2

Matters in respect of which levy payable

rr 15–17

The levy referred to in regulation 15A is payable in respect of the following matters:

- (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 the relevant export eligibility requirements and any supplementary notices referred to in section 38(6) of the Act, whether wine is eligible for export:
 - (ii) issuing, in accordance with the relevant export eligibility requirements and any supplementary notices referred to in section 38(6) of the Act, export eligibility approvals:
 - (iii) issuing official assurances 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, which come into force on 1 July 2019, amend the Wine Regulations 2006. The amendments, among other things,—

- prescribe new fees and charges set out in *new Parts 1 and 2* of Schedule 1:
- enable the Director-General of the Ministry for Primary Industries to set the rate of the levy payable by wine businesses that export wine, on the basis of a formula (*see new regulation 15A*):
- prescribe the rate of that levy at \$0.01 per litre of wine for the 2019 financial year and all subsequent years until the Director-General sets a new rate of levy

under *new regulation 15A* (see *new Schedule 1AA*, which provides for transitional matters).

These regulations are a confirmable instrument under section 47B of the Legislation Act 2012. They are revoked at the close of 30 June 2020, unless earlier confirmed by an Act of Parliament. That stated time is the applicable deadline under section 47C(1)(a) of that Act.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 30 May 2019.

Notes

1 *General*

This is a consolidation of the Wine Amendment Regulations 2019 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Wine Regulations 2021 (SL 2021/401): regulation 131(a)

Subordinate Legislation Confirmation Act 2019 (2019 No 82): section 20