



Wine (Recognised Agencies and Persons) Notice 2007

Pursuant to sections 74(4) and 120 of the Wine Act 2003, I, Carol Barnao, Director (Standards) issue the following notice for the purposes of—

- (a) specifying the functions and activities that must be performed by agencies and persons recognised under the Wine Act;
- (b) setting out the requirements and procedures for obtaining recognition as a recognised agency or recognised person;
- (c) specifying performance standards and specifications for recognised persons and recognised agencies; and
- (d) specifying records and other information to be kept and returns to be made by recognised persons and recognised agencies.

Signed at Wellington this 12th day of October 2007

(Signed)

Carol Barnao
Director (Standards)
New Zealand Food Safety Authority
(Acting under delegated authority)

Certified in order for signature

(Signed)

Solicitor
Legal Services

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Notice

1 Title

This notice is the Wine (Recognised Agencies and Persons) Notice 2007.

2 Commencement

This notice comes into force on 1 November 2007.

Part 1 Preliminary Provisions

3 Application

- (1) This notice applies to agencies and persons that are recognised, or that wish to be recognised, for the purpose of performing functions and activities under the Wine Act 2003.
- (2) This notice applies in addition to the relevant provisions in the Act, including the requirement that the Director-General must be satisfied that applicants to be recognised agencies and persons be fit and proper persons in terms of sections 69(2) and 70(2) of the Act.

4 Interpretation

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

acceptable outcome is where the verifier is satisfied—

- (a) that the operator is complying with New Zealand regulatory requirements and, where applicable, export requirements; and
- (b) where there have been any departures from any regulatory requirements, that the operator's corrective actions have been, or are being, applied appropriately and are effective

accreditation body refers to IANZ and JAS-ANZ, which are independent organisations of international standing that accredit organisations to ISO standards

Act means the Wine Act 2003

critical non-compliance means any departure from a regulatory requirement that is reasonably likely to—

- (a) result in hazards in wine; or
- (b) result in wine that has false or misleading labelling; or
- (c) jeopardise overseas market access

Director-General refers to the Chief Executive of the New Zealand Food Safety Authority

evaluation means the process of assessment, independent of the operator, of the validity of a wine standards management plan for the purposes of providing an independent evaluation report under section 18(1)(b) of the Act

evaluator means a person who is an individual who is recognised under section 70 of the Act to perform evaluation functions and activities

IANZ means the accreditation body, International Accreditation New Zealand

ISO 17020 refers to AS/NZS ISO/IEC 17020:2000 which is the current edition of the Australian/New Zealand Standard on 'General criteria for the operation of various types of bodies performing inspection'

JAS-ANZ means the accreditation body, Joint Accreditation System of Australia and New Zealand

NZFSA means the New Zealand Food Safety Authority

NZQA means the New Zealand Qualifications Authority

Type A inspection body refers to an organisation providing 'third party' functions and activities, as described in ISO 17020, independent of the operator

unacceptable outcome is where the verifier is not satisfied that the operator is in compliance with the regulatory requirements relevant to their operation including where—

- (a) the operator has failed to identify or effectively address a critical non-compliance; or
- (b) there are numerous non-compliances that collectively prevent the verifier from having confidence in the operation of the system being verified; or
- (c) the required records are absent, incomplete or have been altered, to a degree that prevents the verifier from having confidence in the system being verified; or
- (d) the verifier determines that the wine standards management plan is no longer appropriate to the operation

verification means the application of methods, procedures, tests and other checks to confirm compliance of the wine business with the registered wine standards management plan, standards and specifications or export requirements

verifier means a person who is an individual who is recognised under section 70 of the Act to perform verification functions and activities.

- (2) Any term or expression that is defined in the Wine Act 2003 or regulations made under that Act, and used, but not defined, in this notice has the same meaning as in that Act or regulations.

Part 2 Recognised Agencies

5 Application of this Part

This Part applies to all persons or bodies seeking to become a recognised agency in accordance with section 69 of the Act.

6 Functions and activities that must be undertaken by a recognised agency

Agencies responsible for managing or supplying any of the following functions and activities must be recognised persons under section 69 of the Act—

- (a) verification of businesses operating under a wine standards management plan;
- (b) verification for the purposes of export, export eligibility requirements and official assurances issued under the Act.

7 Requirements for obtaining recognition as a recognised agency

- (1) Every agency that wishes to be recognised to perform verification must be accredited—
 - (a) by an accreditation body in accordance with ISO 17020 as a Type A inspection body; or
 - (b) in accordance with any alternative standard approved by the Director-General as a generally equivalent qualification for a recognised agency.
- (2) The Director-General may grant temporary recognition to agencies that are not accredited under subclause (1) provided that:
 - (a) the temporarily recognised agency is qualified to be recognised under section 69 of the Act in every respect apart from being accredited under subclause (1);
 - (b) the Director-General considers it is necessary or desirable to grant the temporary recognition to facilitate the transition to verification of wine businesses under the Act; and
 - (c) any temporary recognition will expire on or before 1 July 2011.

- (3) The agency must have documented procedures to ensure that—
 - (a) recognised persons employed or engaged by it comply with the requirements of the Act and associated regulations, notices, directions and conditions relevant to their functions and activities; and
 - (b) the results, including reports, arising from the performance of functions and activities, and the dispute procedures are communicated to wine businesses to which they relate and the Director-General.
- (4) The Director-General may determine which or how many of the individuals employed or engaged by an agency to carry out the functions and activities under the Act need to have their competency assessed by the accreditation body for the purpose of the agency gaining recognition, based on the agency's expected management and supply of the functions and activities to be performed.

8 Notification and reporting requirements

- (1) A recognised agency must notify the Director-General—
 - (a) in writing within 30 days—
 - (i) of any change in the directorship, management, or control of the recognised agency; and
 - (ii) where a recognised person ceases to be employed or engaged by it;
 - (b) as soon as practicable where any recognised person employed or engaged by it has been found to not meet the requirements of this notice; and
 - (c) as soon as practicable after any contractual arrangement with the operator of a wine standards management plan for the provision of verification functions and activities has been terminated.
- (2) A recognised agency must report to the Director-General—
 - (a) on the completion of verification, including any follow up activity, the outcome assigned to the verification visit and any changes to the verification frequency; and
 - (b) in the event that the operator fails to undertake a corrective action within the agreed period of time.

9 Records and records accessibility

- (1) Recognised agencies must retain records relating to the functions and activities managed or supplied by that agency.
- (2) The records retained under subclause (1) must be—
 - (a) available for immediate inspection by wine officers, the Director-General and any other person authorised to act on the Director-General's behalf; or
 - (b) if not immediately available for inspection, retrievable within 48 hours or longer period as determined by the wine officer, Director-General, or other person authorised to act on the Director-General's behalf; and
 - (c) retained for a period of at least seven years.

Part 3 Recognised Persons

10 Application of this Part

This Part applies to all persons seeking to become a recognised person under section 70 the Act.

11 Functions and activities of recognised persons

Persons wishing to carry out the following functions and activities must be recognised persons under section 70 of the Act—

- (a) evaluation of wine standards management plans;

- (b) verification of businesses operating under a wine standards management plan;
- (c) verification for the purposes of export, export eligibility requirements and official assurances issued under the Act.

12 Restriction on performing verification and evaluation functions

A person recognised as both a verifier and an evaluator may not perform both functions on the same wine standards management plan within a two-year period.

13 Requirements for becoming a recognised person

- (1) Any person applying for recognition who is subject to the management of a recognised agency, or an agency that is in the process of applying for recognition, must submit his or her application through that agency. The recognised agency must confirm to the Director-General that the person meets the requirements in subclause (2).
- (2) To be recognised by the Director-General, a person must—
 - (a) have achieved an audit qualification certified by a JAS-ANZ accredited body, or have attended a NZQA-recognised audit course, or obtained a NZFSA unit standard in auditing at level 6 or above, or any alternative approved by the Director-General as a generally equivalent qualification for a recognised person;
 - (b) demonstrate recent satisfactory performance as an auditor;
 - (c) demonstrate knowledge and experience that will enable the Director-General to determine that the person is able to adequately and competently act as a recognised person in the wine industry; and
 - (d) demonstrate an understanding, to the extent relevant to the person's recognition, of the Wine Act 2003 regime and associated non-legislative information.

Part 4 Evaluation

14 Application of this Part

This Part applies to persons recognised to prepare independent evaluation reports on the validity of wine standards management plans and amendments.

15 Statements for the purposes of evaluation reports

The recognised person must include in the evaluation report a statement that confirms whether or not the wine standards management plan or amendment is valid in terms of sections 8 and 14 of the Act.

Part 5 Verification

16 Application of this Part

This Part applies to agencies and persons recognised to perform verification functions and activities.

17 Verifiers to be subject to the management of a recognised agency

Recognised persons performing verification functions and activities must be subject to the management of an agency recognised under section 69 of the Act.

18 Verification scope

- (1) At the commencement of verification, the verifier must advise the operator being verified of the scope of the verification.
- (2) Despite subclause (1), the verifier is not restricted to the planned scope during verification should the verifier see the need to expand the areas of verification.

19 Assigning an outcome

On the completion of verification, the verifier must assign the verification as having either an acceptable outcome or an unacceptable outcome, and inform the operator of the assignation.

20 Reporting requirements

- (1) Where a verification visit is assigned an unacceptable outcome due to a failure of the operator to identify or effectively address a critical non-compliance, the verifier must report the critical non-compliance to the Director-General within 24 hours, and include any recommendations.
- (2) Within five working days of undertaking verification, the verifier must provide the recognised agency and the operator a written report that identifies—
 - (a) the verification outcome and any change to the verification frequency;
 - (b) any non-compliances and corrective actions to be undertaken to confirm that the operator has addressed each non-compliance;
 - (c) when the next verification will be undertaken (this does not prevent unscheduled verification); and
 - (d) if the verifier considers that the operator is not in compliance with their duties under section 13 of the Act.

21 Verifier rights

Where a person recognised to verify wine standards management plans is prevented from exercising his or her rights under a wine standard management plan, that person must—

- (a) advise their managing recognised agency and the Director-General as soon as practicable; and
- (b) recommend any actions to be taken; and
- (c) confirm the advice to the Director-General in writing.

Issued under section 120 of the Wine Act 2003.

Date of notification in Gazette: 18 October 2007

This notice is administered in the New Zealand Food Safety Authority.
