



# Representations of origin for wines sold in New Zealand

All wine sold in New Zealand must be labelled with its country of origin. Many wines choose to highlight their regional origin as well. The law requires that any claims made about a wine's origin must not be false, misleading or deceptive.

The origin of a wine is usually one of its most distinguishing features and consumers are often influenced by a wine's origin when deciding what to buy. That's why most bottles of New Zealand wine proudly proclaim their origin in one way or another – eg:

- with **words** – “Wine of New Zealand”; “Central Otago Pinot Noir”; “Awatere Valley, Marlborough”
- with **images or branding** – a map showing the place; a flag; an emblem; an image of a notable local feature like a river, hill, or building; or some other design or logo that in the consumer's mind will be associated with a place.

All of these things can be **representations of origin** – something that tends to make a consumer associate your wine with a place. This factsheet summarises the law around representations of origin and gives some guidance on how to apply the law to your wine.

Our [New Zealand Winegrowers Labelling Guide](#) (pages 5 - 10) discusses in detail all of the mandatory labelling requirements, plus requirements that apply only when you include optional information like vintage and variety.

## WHAT THE LAW SAYS

The three most important laws about using representations of origin on your wine and marketing in New Zealand are:

### Section 13(j) of the Fair Trading Act 1986 says:

- “no person shall... ..make a false or misleading representation concerning the place of origin of goods.”

### Regulation 7 of the Wine Regulations 2007 says:

- all grape wine sold in New Zealand “must be labelled in a manner that clearly indicates the country of origin of the wine”; and
- if any of the grape content comes from another country “that country must be named on the label as a source of ingredients used in the manufacture of the wine”.

### Section 21 of the Geographical Indications (Wine and Spirits) Registration Act 2006 says:

A person may use a New Zealand registered geographical indication in relation to a wine only if:

- at least 85% of the wine is obtained from grapes harvested in that place (or places); and
- all of the rest of the wine is obtained from grapes harvested in New Zealand.

The penalties for breach of the Fair Trading Act and the Geographical Indications Act are significant – up to \$600,000 per breach – and the surrounding publicity can destroy a brand. Breach of the Wine Regulations with intent to deceive is an offence for which the maximum penalty includes imprisonment.

Other laws also impose similar requirements – for example section 238(2) of the Food Act 2014 and section 97(1)(b) of the Wine Act 2003.

### HOW DO I KNOW IF MY REPRESENTATIONS OF ORIGIN ARE MISLEADING UNDER THE FAIR TRADING ACT?

The law gives you a lot of flexibility about how you label your wine for sale in New Zealand, and how you promote it in your advertising and marketing. But it also requires you to be straight-up with consumers so that if they are thinking of buying your wine, your representations of origin leave them with a fair and accurate impression of where the wine is from. If you start by thinking of it as a requirement to **“be honest, and respect your consumers”**, you’ll be 90% of the way there.

Because each product and its packaging and marketing is different it is impossible to give many hard and fast rules. But an important part of the test includes asking **whether or not a reasonable consumer, in all the circumstances, would be misled**. Whether you intended to mislead is irrelevant.

This means you need to think about the **whole impression** conveyed to the consumer by your product and its marketing, including its wording, images, and branding; plus what the consumer might already know about it. You also particularly need to think about how prominent (or hard-to-find) different pieces of information are. All of these things will influence the whole impression that a consumer will get – and whether or not they may be misled.

### WHAT INFLUENCES A REASONABLE CONSUMER?

The whole impression a consumer takes from your packaging might be influenced by things like:

#### Size and placement of the elements:

- What is prominent (big, bold, clear, high-contrast, placed where it will be seen easily)?
- What do you only notice if you look carefully (small, indistinct, low contrast, buried within blocks of text?)

**Completeness:** What is omitted from the packaging that might change the consumer’s impression?

**Clarity:** Is it easy to understand the elements of information presented?

**Consistency:** Are there disparities between different elements, or does the information consistently steer the consumer towards the same accurate impression?

- For example, does the main branding and imagery all suggest “New Zealand”, while the “country of origin” statement in small type within a large panel of text says “Wine of Australia”?

#### Inferences:

Does the label echo a well-known label?

Does a “made-up” landscape look like a real place?

Does the brand name include or suggest a place name? (eg Maori words will likely suggest “New Zealand”);

Is the “producer address” a place known for its wine, even though the wine in the container is from elsewhere? (eg a Sauvignon Blanc grown in Bay of Plenty but with a Blenheim producer address).

#### Familiarity:

Is this a new brand or labelling, or is it old and familiar?



Does it look like something familiar, but is actually something different? (eg has the wine composition changed since last vintage, and if so is that clear?)

**Purchase setting:** How many seconds might the customer spend at the supermarket shelf before selecting your wine?

All of these factors, and more, will influence whether the representations of origin made by your wine, when taken as a whole, might be found to be misleading.

If there is some element of your packaging that might give a misleading impression (but which for some reason is important to retain) you should ensure that the accurate information is also presented, and is much more prominent so it will be immediately obvious to a prospective customer. In this situation, you should seek legal advice.

### IMPACT OF THE GEOGRAPHICAL INDICATIONS ACT

The Geographical Indications (Wine and Spirits) Registration Act adds an additional restriction.

For any **registered Geographical Indication**, you may not use the registered words – even as part of a brand name – if the wine is not from that region.

For example: a wine branded “Gisborne Hills”, made from less than 85% Gisborne grapes would not be permitted, because “Gisborne” is a registered GI for wine.<sup>1</sup>

The GI Act also reiterates that a wine may only bear a registered New Zealand GI if all of the grapes used are New Zealand grapes.

### WINE SOLD OUTSIDE NEW ZEALAND

It is important to note that the information in this factsheet applies to wine sold in New Zealand. Labelling requirements for wine sold outside New Zealand is determined by the laws of each market of sale. In this regard the passage of the GI Act has made clear that under USA law, NZ wine sold in the USA and labelled with a registered NZ Geographical Indication must be 100% New Zealand wine.

### WHERE CAN I GET MORE INFORMATION?

Our **New Zealand Winegrowers Labelling Guide** contains detailed guidance on all aspects of labelling.

The Commerce Commission has produced a guide to **Fair Trading Act Place of Origin Representations** (which focusses on “Made in New Zealand” type claims).

For more information, or to discuss your labelling compliance generally, contact the New Zealand Winegrowers Advocacy team: **advocacy@nzwine.com**

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<sup>1</sup> Note that some exceptions apply for trademarks that existed before the GI was registered.