

# Australian labelling laws



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The Australian wine industry is governed by various State and Federal laws which regulate the industry's legal obligations with respect to the manufacture and labelling of all bottled and packaged wine. The law also imposes penalties and sanctions for those who breach them.

The laws, regulations and standards can be found in the:

- Australian Wine and Brandy Corporation Act 1980 ("the Act")
- Australian Wine and Brandy Corporation Regulations 1981 ("the Regulations")
- Food Standards Code.

The Food Standards Code was implemented by Food Standards Australia New Zealand (FSANZ). The code prescribes manufacturing and labelling standards for wine manufactured in Australia, and for wine imported into and wine exported out of Australia.

There is no authority in Australia, (nor does FSANZ) register or approve wine labels and this is not a function of FSANZ. In respect to the layout of the information on a wine label, there are no prescribed standards or regulations, except for the volume statement which must appear on the front label of the wine bottle. The Australian Wine and Brandy Corporation (AWBC) however, do check labels for the export of wine to ensure they comply with the law.

Exporters will need to be mindful that not only must they comply with Australian labelling laws, but also the labelling laws and requirements of the importing country

FSANZ has determined that the following information must be included on a wine label:

- name or description of the food – eg. "Wine" or "Sparkling Wine" or a grape varietal name, or generic wine style name can adequately describe or name the food
- volume statement- eg. "750ml" must appear on the front label and exposed on the shelf in view of customers
- alcohol statement – the alcohol content must be specified eg. "12.5% ALC/VOL"
- standard drink statement – eg. "approx 7.4 standard drinks"
- allergen declaration – certain allergenic substances prescribed by FSANZ used as an ingredient, food, additive or processing aid and present in the final product, must be described, eg. "egg white"
- country of origin – eg. "Produce of Australia" or "Australian Wine"
- name and address – of the vendor, manufacturer or importer must be placed somewhere on the label
- best before dates – only mandatory if the wine has a limited shelflife of two years or less.

The following information is optional for inclusion on the wine label:

- geographical indication of the grape origin
- winery name/trade mark/business or brand name
- vintage
- variety of grape.

The Australian Wine and Brandy Corporation Act 1980 ("the Act"); incorporates provisions which are designed to ensure the truthfulness of all statements made on wine labels, or statements made for commercial purposes in other ways, about the vintage, variety or geographical indication of wine manufactured in Australia.

The Act requires wine manufacturers to make records within three months of the happening of an event required for record keeping and to keep records for a period of seven years. The purpose of record keeping is to ensure that what is represented on a wine label can be supported by auditing and tracing the events and every step taken in making the wine. Some of the types of records required relate to the date of receipt of the grapes from the grapegrower, the quantity received, the characteristics of the wine, the variety, grape extracts used, vintage, the geographical indication, the identity of the supplier, date of manufacture, the volume of wine, how it was stored and for how long and so on.

The AWBC, has the power to inspect records and to procure the production of records of a wine manufacturer. Failure to comply with any notice issued for the production of records can carry a \$15,000 fine. The AWBC can use any record produced or inspected in support of a prosecution of a label offence.

A wine manufacturer can be found guilty of an offence and fined \$15,000 for intentionally failing to make or keep a record as required by the Act, or intentionally making or keeping a record of a matter that is false, misleading or incomplete and does not accurately reflect the information on a wine label.

The Act and the Regulations also deal with 'protected names' and 'traditional expressions' with respect to wine trading agreements entered into by Australia with other countries or organisations outside of Australia. The Regulations address description, presentation and labelling requirements for wine exported to other countries and also addresses the standards required in order to obtain an export license, based on the labelling standards set by the Food Standards Code.

The Regulations impose heavy penalties for those who breach these provisions. A person found guilty of an offence for intentionally selling, importing or exporting wine with a false description and presentation can be sentenced to imprisonment for a maximum of two years or fined a maximum of \$13,200 or both. The AWBC can also suspend or cancel an export license for certain breaches of the labelling Regulations.

In addition to the sanctions imposed under the Act and Regulations, a wine manufacturer, importer or exporter who engages in false or misleading or deceptive conduct in the description and presentation on their wine label or marketing or promotional material, may also find themselves in breach of the Trade Practices Act 1974 and the various State Fair Trading Acts. A successful claim or prosecution under either of these laws can result in substantial damages being awarded against the offender.

*If you require further information, legal advice or services concerning your wine business, then please contact Rachel Clarke. Rachel is qualified both in law and viticulture. She is a partner in Sydney firm, Hogan Geikie Poole Lawyers, and the emphasis of her work is commercial transactions, dealings and negotiations. Rachel is developing a specialty practice in providing legal services to the wine industry. You may contact Rachel on (02) 9261 8777 or rclarke@hgplawyers.com.au*