

BUY NEW ZEALAND MADE CAMPAIGN

CODE OF PRACTICE Version 6

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Buy New Zealand Made Campaign Ltd

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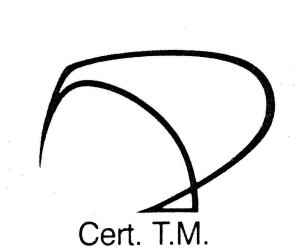
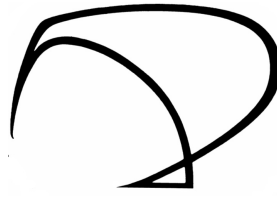
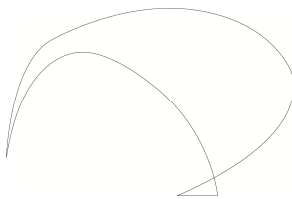
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Trademark

Purpose of certification registration

1. Business New Zealand Inc. has registered the following trademark as certification trademarks with the Intellectual Property Office of New Zealand (**IPONZ**) so as to ensure all persons, businesses and organisations that qualify are free to use the Kiwi trademark in the promotion of their products and services in accordance with the terms of the licence contained in these rules:



Owner of certification trademark and approved certifier

2. Business New Zealand Inc. (**Business NZ**), a not-for-profit organisation, is the owner of the trademarks above, including when used in the following forms (the **Kiwi trademark**):



3. Business NZ is the national voice of its members - the four regional employer organisations EMA, Business Central, the Canterbury Employers Chamber of Commerce and the Otago Southland Employers Association. Business NZ is committed to New Zealand's success by promoting sustainable growth through free enterprise. Business NZ owns The Buy NZ Made Campaign Limited (**Buy NZ**) to which it has delegated the task of administering a scheme for the identification of New Zealand Made goods and services for which the Kiwi trademark is used. Buy NZ is the only entity who may certify use of the Kiwi trademark (or any marks featuring the Kiwi design present in the Kiwi trademark) for goods and services.

Licence to use the Kiwi trademark

4. Buy NZ operates the Buy NZ Made Campaign and administers the use of the Kiwi trademark. Any individual, business or organisation can apply to Buy NZ for a licence to use the Kiwi trademark by completing and lodging an application for a licence. Buy NZ will process all applications and approve licences on the terms and conditions contained in these rules. Licensees are authorised to use the trademarks in accordance with these rules.

Approval of application for a licence or renewal

5. Buy NZ will approve an application for a licence or renewal where the applicant can satisfy it that they have:
 - i) paid the necessary fees;
 - ii) provided a list of goods or services that qualify under these rules for promotion using the Kiwi trademark and for which they will use the Kiwi trademark ;
 - iii) signed the declaration included in the application form confirming that they have received and will comply with these rules;
 - iv) agreed never to directly or indirectly challenge, contest or call into question the validity of the Kiwi trademark or the marks as registered and set out in paragraph 1 of these rules, or the ownership of the Kiwi trademark or the marks as registered and set out in paragraph 1 of these rules;
 - v) agreed to indemnify and hold Buy NZ and Business NZ harmless from any claims arising out of their use of the Kiwi trademark; and
 - vi) agreed to comply with any request from Buy NZ for evidence that the Kiwi trademark is being used in accordance with these rules.

Licence types and fees

6. There are five types of licence options with the following price levels:
 - i) Manufacturer, product or service industry fees

This licence applies to those who manufacture products for themselves or others, those who produce their own products (including where they use third party manufacturers), and those who offer services other than pure retail services.

Annual fees for this licence are based on the number of staff employed by the organisation applying for the licence, including all staff employed by subsidiaries of the licensee.

The minimum fee payable is \$250.00 + GST when the number of staff employed is less than 30. The maximum fee payable is \$5,000.00 + GST when the number of staff employed is over 500.

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For full details of fees please refer to the fee schedule on the Buy NZ website, www.buynz.org.nz.

ii) Associated business licence fees

This licence applies to companies which are a subsidiary of a licensee of the Kiwi trademark but which also wishes to use the Kiwi trademark on product it manufactures (including where they use third party manufacturers).

There is a one off registration fee for such associated businesses. The licence cost for an associated business is a once only licence fee of \$75.00 + GST.

An associated business retains a licence for the duration that the parent licensee retains a licence.

Associated business receives their own certificate and must comply with these rules.

iii) Cottage industry licence fees

This licence applies to any small or start up business with their primary place of business in New Zealand and which have an annual turnover of under \$200,000.00.

A Cottage licence entitles a business as described to the same benefits as a basic full licence for a \$100.00 + GST annual fee.

iv) Retail licence fees

This licence applies to retailers who wish to use the Kiwi trademark to promote their retail business which sells licensed products. It does not authorise use of the Kiwi trademark on product itself.

The minimum retail licence fee payable is \$50.00 + GST annual fee which can include up to 5 stores in a chain. A further \$50.00 + GST annual fee is payable for each additional 5 stores, i.e. 1-5 stores = \$ 50.00 + GST annual fee, 6-10 stores = \$ 100.00 + GST annual fee.

v) Charity and education provider licence fees

At Buy NZ's sole discretion, charities and education providers (such as colleges and schools) can obtain a free licence to use the Kiwi trademark for a renewable period of 15 months.

Charities and education providers must seek renewal of a licence granted to it under this category before the expiry of 12 months of the licence period as stated in the

licence certificate issued by Buy NZ, failing which the licence will automatically expire 15 months from the date the licence is granted.

Certificate of licence

7. Buy NZ's approval of an application for a licence will be evidenced by issuing a certificate of licence in print or digital format that is valid for the period specified on the certificate. The certificate of licence remains the property of Buy NZ and must be returned promptly to it on request or on termination of the licence.

Amendments to details on licensee register

8. All licensees shall notify Buy NZ within 14 days of any change to the details relating to that licence contained on the licensee register.

Invoicing and payment

9. Buy NZ shall invoice licensees each year in respect of their licence or renewal thereof.
10. If payment of any invoice is not received by Buy NZ as cleared funds on the due date specified in the invoice:
 - i) Buy NZ has the right to charge penalty interest for late payment at the rate of 15% per annum accruing on a daily basis from the time on which payment is due until the actual date of payment, and such charge shall be without prejudice to any other rights or remedies of Buy NZ under these rules or for non-payment of monies due; and
 - ii) all costs incurred by Buy NZ in the recovery and attempted recovery of the overdue amount and any late payment penalties will be added to the balance due, including but not limited to debt recovery charges and legal fees.

Use of Kiwi trademark

Use of the Kiwi trademark by licensees

11. Licensees can only use the Kiwi trademark

- i) in relation to goods and services on their product list as submitted to and held by Buy NZ;
- ii) in relation to goods and services made or produced in New Zealand;
- iii) in accordance with any statutory requirements;
- iv) in a way that does not mislead the public as to the goods or services for which use of the Kiwi trademark is authorised;
- v) in combination with other elements that do not detract from the effectiveness of the Kiwi trademark;
- vi) in a context that does not imply quality assurance;
- vii) in a way that will not affect the validity of the Kiwi trademark;
- viii) with “CertTM” or “Certification TM” in close proximity to the Kiwi trademark;
- ix) on labels, displays, outer and advertising in accordance with these rules and in such other manner as may from time to time be directed or approved by Buy NZ; and
- x) in relation to goods and services and in a manner that does not damage the reputation of the Kiwi trademark or the Campaign.

For the purposes of interpreting the term “made or produced in New Zealand” it is understood that a product is made or produced in New Zealand if its parts are transformed so that the essential characteristics of the product come into being in New Zealand and meet the requirements of the Fair Trading Act for Country of Origin labelling. By way of example:

Orange juice made from imported concentrate which has water added and is bottled in New Zealand, is not made in New Zealand. This is because it is the imported concentrate which gives the juice its essential characteristics, not the water or the bottling.

Clothing made from imported fabric which is cut and sewn in New Zealand is made in New Zealand. It is the cutting and sewing of the fabric which gives the clothing its essential characteristic, not the fabric.

Application to include new goods or services on the product list

12. Licensees may apply to Buy NZ to include a new good or service on their product list. The application will be approved where the applicant can satisfy Buy NZ that they have signed a declaration confirming use of the Kiwi trademark for those goods or services will comply with these rules.

Application to remove goods or services from the product list

13. Licensees may apply to Buy NZ to remove goods or services from their product list.

Alteration of design of the Kiwi trademark not permitted

14. Licensees are not permitted to alter or amend the Kiwi trademarks in any way other than with the written approval of the Campaign.

Kiwi trademark may be sized to meet member requirements

15. Licensees may alter the size, but not the relative proportions, of the Kiwi trademarks to meet their individual requirements.

Use of colour to meet member requirements

16. Licensees may use any colour or colour combination in relation to the elements of the Kiwi trademark to meet their individual requirements.

Compliance

Licensee register

17. Buy NZ will maintain on its website at www.buynz.org.nz a register of the following details relating to each licensee:

- i) registered business name or personal name of licensee (as applicable);
- ii) trading name;
- iii) street address;
- iv) postal address;
- v) business telephone number;
- vi) web site details;
- vii) nominated contact officer and title of that officer;
- viii) nominated persons email address; and
- ix) product list – being a listing of all goods and services for which the licensee holds a licence to use the Kiwi trademarks, as amended from time to time in accordance with these rules.

The product list will be publically shown separately from the licensee or individuals details to protect any sensitive information.

Compliance audit

18. Buy NZ shall conduct an annual compliance audit of a sample of licensees selected at random from the licensee register.

Request for evidence from applicants and licensees

19. Buy NZ may as part of a compliance audit, or at any time, request evidence from a licensee or applicant for a licence that its use of the Kiwi trademark complies or will comply with these rules. Within a time period set by Buy NZ the licensee or applicant must prove, to the satisfaction of Buy NZ, its use or proposed use of the Kiwi trademarks will or does comply with these rules. In the absence of such evidence from the licensee or applicant Buy NZ may cancel the licensee's licence to use the Kiwi trademark or refuse to grant an applicant a license to use the Kiwi trademark.

Complaints

Complaints received by Buy NZ about use of the Kiwi trademark by a licensee

20. Buy NZ shall follow the following procedures in relation to complaints where the complaint involves use of the Kiwi trademark by a licensee:
- i) Buy NZ will send the licensee a notice advising of the complaint and asking for the licensee's response within 14 days;
 - ii) the licensee will respond to Buy NZ within 14 days, attaching evidence to support its compliance with these rules;
 - iii) Buy NZ will evaluate the licensee's response to determine whether the complaint is valid or insufficiently addressed by the licensee;
 - iv) Buy NZ may require the licensee to undergo a compliance audit, conducted in accordance with these rules; and
 - v) should the complaint be valid or the compliance audit find the licensee is not complying with these rules, or that it is unclear whether the licensee's use complies with these rules, Buy NZ may impose the sanctions detailed in these rules against the licensee.

Complaints received by Buy NZ about the use of the Kiwi trademark by unlicensed businesses/individuals

21. Buy NZ shall follow the following procedures in relation to complaints where the complaint involves use of the Kiwi trademark by an unlicensed business or individual:
- i) Buy NZ will write to the unlicensed business or individual setting out the circumstances under which the Kiwi trademark may legally be used, and asking the unlicensed business or individual to rectify the situation; and
 - ii) if the complaint is not resolved within the time set by Buy NZ, Buy NZ may, at its sole discretion, have recourse to other action, including legal action and referral of the complaint to the appropriate authorities.

Complaints received by licensees

22. Where a licensee receives a complaint about its use of the Kiwi trademarks, it will respond to the complainant in writing within 14 days of receiving the complaint. The licensee will take all reasonable steps, in good faith, to resolve the complaint directly with the complainant and:
- i) a copy of the complaint and response must be provided to Buy NZ at the same time as the licensee responds to the complainant; and
 - ii) in its response to the complainant, the licensee will explain the basis, if any, upon which the claim in question is justified and/or what corrective action has been taken to remedy the complaint, if any.

Responsibility

Right to appeal

23. Any company or individual whose licence to use the Kiwi trademark is cancelled by Buy NZ or who is refused a licence to use the Kiwi trademark for any goods or services by Buy NZ may appeal that decision to the Commissioner of Trade Marks.

Right to use not assignable

24. The licence granted to a party under these rules is non-transferrable.
25. Liability in relation to use of the Kiwi trademark by an assignee rests with the licence holder.
26. All liability shall rest solely with the company or individual who holds the licence in relation to use of the Kiwi trademarks.

Use of Kiwi trademark to cease upon termination or withdrawal

27. Upon termination of the licence or cancellation of the licence, the company or individual who held the licence, shall immediately cease using the Kiwi trademark.
28. Where a licensee has cancelled their licence but continues to use the Kiwi trademark, then in addition to the normal remedies available to it and Business NZ, Buy NZ reserves the right to invoice the company or individual that held the licence for the usual annual fee normally charged for that licence which the licensee shall pay.

Cancellation

29. A licensee's licence to use the Kiwi trademark will be cancelled if they do not fulfil any of the conditions of use set out in these rules.
30. Cancellations of licences by a company or individual must be made in writing to Buy NZ.

Licence fees forfeited if licence is cancelled, suspended or revoked

31. Where Buy NZ suspends or revokes a current licence in line with these rules, or where a licensee voluntarily cancels their licence, all licence fees paid are forfeited to Buy NZ.
32. Where a licensee's licence is revoked or cancelled after the end of the licence period but after an invoice for renewal of the licence has issued the licensee shall be liable for and shall pay to Buy NZ the amount so invoiced in full.

Lodgement of rules and conditions

Lodgement of rules and conditions with IPONZ

33. These rules and conditions are lodged with IPONZ and are available for inspection by any person.

Amendment to rules and conditions

34. Subject to the prior approval of the Commissioner of Trade Marks, Business NZ may from time to time alter these rules or adopt new rules wholly or in part. Buy NZ will advise all licensees of any change to the rules as soon as is practical.

Notices

35. Any notice given by Business NZ and Buy NZ in pursuance of these rules shall be deemed to have been duly given on sending through the post by prepaid letter addressed to the licensee concerned at its address on the register or on the date of posting on Buy NZ's website.
36. Any notice given by a licensee to Buy NZ in pursuance of these rules shall be in writing and shall be deemed to have been duly given on receipt by Buy NZ by fax 04 4966550, post P.O. Box 1925, Wellington 6140 or email: info@buynz.org.nz.