Wine Australia Act 2013

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About this compilation

This compilation

This is a compilation of the *Wine Australia Act 2013* that shows the text of the law as amended and in force on 1 July 2021 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to establish Wine Australia, and for related purposes

Part I—Preliminary

1 Short title

This Act may be cited as the *Wine Australia Act 2013*.

2 Commencement

(1) Sections 1 and 2 and subsection 13(4) shall come into operation on the date on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act shall come into operation on a date to be fixed by Proclamation.

3 Objects

The objects of this Act are:

(a) to support grape or wine research and development activities; and

(aa) to support the growth of the wine industry, and other industries that make wine (within the meaning of section 33-1 of the *A New Tax System (Wine Equalisation Tax) Act 1999*); and

(ab) to support the growth of international wine tourism, and services, products and experiences that complement international wine tourism; and

(b) to control the export of grape products from Australia, including through the use of a Label Directory containing digital colour images of grape product labels and other information to allow persons to identify potential infringements of intellectual property rights; and

(c) to promote the consumption and sale of grape products, both in Australia and overseas; and

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(d) to enable Australia to fulfil its obligations under prescribed wine-trading agreements and other international agreements.

4 Interpretation

(1) In this Act, unless the contrary intention appears:

agreement country means:

(a) if an agreement relating to trade in wine is in force between the European Community and Australia—an EC country; and

(b) if an agreement relating to trade in wine is in force between a foreign country (other than an EC country) and Australia and is declared by the regulations to be a prescribed wine-trading agreement—that foreign country.

annual general meeting means a meeting that is convened under section 29W.

annual operational plan means an annual operational plan developed by the Authority under section 31F.

Australia includes all the external Territories.

Authority means the authority known as Wine Australia.

Note: See section 6.

Authority Selection Committee means the Wine Australia Selection Committee.

blend means wine manufactured by blending wines of different vintages, varieties or geographical indications.

blending requirements means requirements relating to the blending of wines of different varieties, geographical indications or vintages, or any combination of the above.

Chair means the Chair of the Authority.

corporate plan means a corporate plan prepared by the Authority under section 31 or 31A.

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corporation, in Part VIB, means a body corporate that:

(a) is a foreign corporation within the meaning of paragraph 51(xx) of the Constitution; or

(b) is a trading corporation within the meaning of that paragraph that is formed within the limits of Australia; or

(c) is incorporated in a Territory.

country has a meaning affected by subsection (2).

declared wine grape growers organisation means an organisation in relation to which a declaration is in force under section 5B.

declared winemakers organisation means an organisation declared to be a declared winemakers organisation by a declaration in force under section 5A.

Deputy Chair means the Deputy Chair of the Authority.

description, in relation to wine, has a meaning affected by section 5C.

designated foreign country has the meaning given by subsection 40K(3).

director means a director of the Authority, and includes the Chair.

dried grapes means grapes containing less than 60% of moisture.

EC country means a country that is a member of the European Community and, during the UK withdrawal transition period, includes the United Kingdom.

examinable document means:

(a) any document required to be kept:

(i) in relation to Part VIA—under Part VIA; or

(ii) in relation to Part VIB—under Part VIB; or

(iii) in relation to Part VII—under Part VII; or

(b) any wine label or other document relating to the vintage, variety or geographical indication of wine goods; or

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(c) any document relating to advertising the vintage, variety or geographical indication of wine goods; or

(d) any other document that is relevant to monitoring or enforcing compliance with a label law.

export means export from Australia.

Federal Court means the Federal Court of Australia.

fresh grapes means grapes containing not less than 60% of moisture.

funding agreement means an agreement under subsection 35(1C).

general component, in relation to wine grapes levy, means the part of the levy mentioned in paragraph 7(1)(a) of Schedule 26 to the *Primary Industries (Excise) Levies Act 1999*.

geographical indication, in relation to wine goods, means an indication that identifies the goods as originating in a country, or in a region or locality in that country, where a given quality, reputation or other characteristic of the goods is essentially attributable to their geographical origin.

grape extract means grape juice, must, or concentrate obtained from grapes.

grape industry means the industry in Australia concerned with the production of grapes for processing, other than processing by drying.

grape or wine research and development means systematic experimentation and analysis in any field of science, technology or economics (including the study of the social or environmental consequences of the adoption of new technology) carried out with the object of:

(a) acquiring knowledge that may be of use in obtaining or furthering an objective of the grape industry or the wine industry; or

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(b) applying such knowledge for the purpose of attaining or furthering such an objective.

For this purpose, ***knowledge*** includes knowledge that may be of use for the purpose of improving any aspect of the production, processing, storage, transport or marketing of goods that are the produce, or that are derived from the produce, of the grape industry or the wine industry.

grape or wine research and development activity means:

(a) a grape or wine research and development project; or

(b) the training of persons to carry out grape or wine research and development; or

(c) the dissemination of information, or the provision of advice or assistance, to persons or organisations engaged in any aspect of:

(i) the grape industry or the wine industry; or

(ii) the production, processing, storage, transport or marketing of goods that are the produce, or that are derived from the produce, of the grape industry or the wine industry;

for the purpose of encouraging those persons or organisations to adopt technical developments designed or adapted to improve:

(iii) that aspect of the grape industry or the wine industry; or

(iv) that production, processing, storage, transport or marketing; or

(d) the publication of reports, periodicals, books or papers containing information that is related to grape or wine research and development; or

(e) an activity incidental to an activity referred to in paragraph (a), (b), (c) or (d).

grape product means:

(a) wine manufactured in Australia from prescribed goods;

(b) brandy distilled in Australia from any such wine;

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(c) grape spirit manufactured in Australia from prescribed goods and suitable for the fortifying of wine or the manufacture of brandy; or

(d) a product (being prescribed goods or a product derived in whole or in part from prescribed goods) declared by the regulations to be a grape product for the purposes of this Act.

grape product label means a label attached to, or writing or other sign appearing on, a bottle or other package of a grape product.

grapes research levy means levy imposed by Schedule 13 to the *Primary Industries (Excise) Levies Act 1999*.

inspection power, in relation to wine premises, means:

(a) power to search any part of the premises; or

(b) power to inspect, examine, take measurements of, or conduct tests (including by the taking of samples) concerning, any wine goods or other thing on the premises; or

(c) power to take extracts from, and make copies of, any examinable documents on the premises; or

(d) power to take onto the premises such equipment and materials as the inspector requires for the purpose of exercising any other inspection power on the premises.

inspector means a person appointed under section 39ZA.

international wine tourism means tourism undertaken by international tourists in Australia for the purposes of, or relating to, tasting, consuming or purchasing wine.

label claim, in relation to wine goods:

(a) means a written claim that is made or implied about the wine goods' vintage, variety or prescribed geographical indication, including such a claim that is made or implied:

(i) on a label; or

(ii) in a record that is required to be kept under section 39F; or

(iii) in any other commercial document; or

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(iv) in an advertisement; and

(b) includes such a claim about the vintage, variety or prescribed geographical indication of any other wine goods from which the wine goods were manufactured.

label law means:

(a) in relation to Part VIA:

(i) that Part; and

(ii) regulations made for the purposes of that Part; and

(iii) another law of the Commonwealth relating to the description of wine goods; and

(iv) a law of a State or an internal Territory relating to the description of wine goods; and

(b) in relation to Part VIB:

(i) Part VIB; and

(ii) regulations made for the purposes of Part VIB; and

(c) in relation to Part VII—regulations made under this Act relating to the export of grape products from Australia.

label offence means:

(a) in relation to Part VIA—an offence against a label law (within the meaning of paragraph (a) of the definition of ***label law***); and

(b) in relation to Part VIB—an offence against a label law (within the meaning of paragraph (b) of the definition of ***label law***); and

(c) in relation to Part VII—an offence against section 44.

manufacture wine includes making a blend.

manufacturer of wine goods means a person who operates an establishment at which:

(a) wine is manufactured; or

(b) grape extract is manufactured, being grape extract that is used or intended to be used in manufacturing wine; or

(c) wine goods are otherwise processed, modified or packaged.

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modify, in relation to oenological practices and processes, or compositional requirements, includes:

(a) add one or more practices or processes, or compositional requirements; and

(b) vary any one or more of the practices or processes, or of the compositional requirements; and

(c) omit any one or more of the practices or processes, or of the compositional requirements.

national food standard means a national standard within the meaning of the *Imported Food Control Act 1992*.

organisation means any body of persons, whether a body corporate or an unincorporated body.

originate, in relation to wine or grape extract that is used or intended to be used in manufacturing wine, has the meaning given by section 5D.

package, in relation to a grape product, means a container in which the grape product is sold or transferred for sale.

pending, in relation to an application for the registration of a trade mark under the *Trade Marks Act 1995*, has the meaning given in that Act.

personal information has the same meaning as in the *Privacy Act 1988*.

prescribed geographical indication means a geographical indication that is prescribed by the regulations for the purposes of this definition.

prescribed goods means:

(a) fresh grapes;

(b) dried grapes; and

(c) grape juice, whether single-strength or concentrated.

prescribed wine-trading agreement means:

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(a) an agreement relating to trade in wine that is in force between the European Economic Community and Australia; or

(b) an agreement relating to trade in wine that is in force between a foreign country (other than an EC country) and Australia and is declared by the regulations to be a prescribed wine-trading agreement.

presentation, in relation to wine, has a meaning affected by section 5C.

principal employee means the person holding the position of principal employee (however described) of the Authority.

protection date for a registered traditional expression has the meaning given by subsection 40DB(6).

Register means the Register of Protected Geographical Indications and Other Terms kept under section 40ZC.

registered means included in the Register.

registered additional term means a term that is included in Part 4 of the Register.

registered conditions of use, in relation to:

(a) a registered geographical indication; or

(b) a registered translation of such an indication; or

(c) a registered traditional expression; or

(d) a registered quality wine term; or

(e) a registered additional term;

means a condition of use included in the Register that is applicable to the geographical indication, translation, traditional expression, quality wine term or additional term (as the case may be).

registered geographical indication means a geographical indication that is included in Part 1 of the Register.

registered owner, in relation to a trade mark, means the person in whose name the trade mark is registered under the *Trade Marks Act 1995*.

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registered quality wine term means a term that is included in Part 3 of the Register.

registered trade mark means a trade mark whose particulars are entered in the Register of Trade Marks under the *Trade Marks Act 1995*.

registered traditional expression means a traditional expression that is included in Part 2 of the Register.

registered translation of a registered geographical indication means a translation, included in Part 1 of the Register, of the registered geographical indication.

Register of Trade Marks means the register kept under section 207 of the *Trade Marks Act 1995*.

Registrar means the Registrar of Protected Geographical Indications and Other Terms established under subsection 40ZA(1).

relevant agency has the meaning given by section 39ZL.

representative organisation has the meaning given by section 5BA.

research component, in relation to wine grapes levy, means the part of the levy mentioned in paragraph 7(1)(b) of Schedule 26 to the *Primary Industries (Excise) Levies Act 1999*.

sell includes offer, expose or advertise for sale.

trade mark has the meaning given in the *Trade Marks Act 1995*.

traditional expression, in relation to wine originating in a foreign country, means a traditionally used name referring, in particular, to the method of production or to the quality, colour or type of the wine.

UK withdrawal transition period means the period when transitional arrangements agreed between the United Kingdom and

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the European Union relating to trade are in force following the withdrawal of the United Kingdom from the European Union.

vacancy, in relation to the office of a director of the Authority, has a meaning affected by section 5E.

variety, in relation to wine or grape extract, means the variety of the grapes from which the wine or grape extract was obtained.

vintage means:

(a) in relation to grapes—the year (within the ordinary meaning of the term, as affected by subsection (2A)) in which the grapes were harvested; or

(b) in relation to wine or grape extract—the year (within the ordinary meaning of the term, as affected by subsection (2A)) in which the grapes from which the wine or extract was manufactured or obtained were harvested.

wine means an alcoholic beverage produced by the complete or partial fermentation of fresh grapes or products derived solely from fresh grapes, or both, and includes a grape product declared by the regulations to be wine for the purposes of this Act.

wine export charge means charge imposed by Schedule 13 to the *Primary Industries (Customs) Charges Act 1999*.

wine goods means:

(a) wine; or

(b) grapes, or grape extract, used or intended to be used in manufacturing wine.

wine grapes levy means levy imposed by Schedule 26 to the *Primary Industries (Excise) Levies Act 1999*.

wine industry means the industry in Australia concerned with:

(a) the storage, distribution, marketing and sale of grape products; or

(b) the making of wine.

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wine label means a label attached to, or writing or other sign appearing on, a bottle or other package of wine.

wine premises means any premises, place or conveyance where it is reasonable to assume that wine goods or examinable documents are or might be located.

World Trade Organization means the body of that name established by the WTO Agreement, done at Marrakesh on 15 April 1994.

Note: The text of the WTO Agreement is set out in Australian Treaty Series 1995 No. 8 ([1995] ATS 8). In 2009, the text of an Agreement in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

year means a period of 12 months commencing on 1 July.

Note: This definition does not apply in relation to the definition of ***vintage*** (see that definition and subsection (2A)).

References to country

(2) For the purposes of this Act, a reference to a country includes a reference to a member of the World Trade Organization.

Harvesting grapes

(2A) For the purposes of the definition of ***vintage***, grapes that are harvested on or after 1 September in a calendar year, and before or on 31 December of that calendar year, are taken to have been harvested in the next calendar year.

Parties to prescribed wine trading agreements

(3) If a prescribed wine trading agreement is in force between the European Community and Australia, each EC country is taken, for the purposes of this Act, to be a party to the agreement.

4A Extension to external Territories

This Act extends to all the external Territories.

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5A Declared winemakers organisations

(1) If the Minister considers that an organisation is a national organisation which is representative of winemakers, the Minister may, by notice in writing published in the *Gazette*, declare that organisation to be a declared winemakers organisation.

(2) A declaration must be published on the Department's website as soon as practicable after it is made.

5B Declared wine grape growers organisation

(1) If the Minister considers that an organisation is a national organisation that is representative of growers of wine grapes, the Minister may, by notice published in the *Gazette*, declare the organisation to be a declared wine grape growers organisation.

(2) A declaration must be published on the Department's website as soon as practicable after it is made.

5BA Representative organisations

(1) For the purposes of this Act, each of the following organisations is a ***representative organisation***:
   (a) a declared winemakers organisation;
   (b) a declared wine grape growers organisation;
   (c) an organisation that the Minister declares, by legislative instrument, to be a representative organisation for the purposes of this Act.

(2) The Minister must not declare an organisation under paragraph (1)(c) unless the Minister is satisfied that the objects or activities of the organisation relate to either or both of the following:
   (a) the grape industry;
   (b) the wine industry.

(3) The Minister must ensure that at least one organisation is a representative organisation for the purposes of this Act.

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(4) A declaration under paragraph (1)(c) must be published on the Department's website as soon as practicable after it is made.

5C Meaning of *description and presentation*

In this Act, a reference to the description and presentation with which wine is sold, exported or imported is a reference to all names (including business names) or other descriptions, references (including addresses), indications, signs, designs and trade marks used to distinguish the wine and appearing:

(a) on the container (including on the device used to seal the container or on a label affixed to the container), on any tag attached to the container or, if the container is a bottle, on the sheathing covering the neck of the bottle; or

(b) on protective wrappings (such as papers and straw envelopes of all kinds), cartons and cases used in the packaging of the wine or the transport of the wine; or

(c) in documents relating to the transport of the wine or in other commercial documents (for example, invoices or delivery notes) relating to the sale or transport of the wine; or

(d) in advertisements relating to the wine.

5D Where wine or grape extract originates

For the purposes of this Act:

(a) a wine, or a grape extract that is used or intended to be used in manufacturing wine, is taken to have originated in a country only if the wine or extract is made from grapes grown within the territory of that country; and

(b) a wine, or a grape extract that is used or intended to be used in manufacturing wine, is taken to have originated in a particular region or locality of a country only if the wine or extract is made from grapes grown in that region or locality.

5E Vacancy in the office of a director of the Authority

For the purposes of a reference in:

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(a) this Act to a vacancy in the office of a director of the Authority; or

(b) the *Acts Interpretation Act 1901* to a vacancy in the membership of a body;

there are taken to be 7 offices of directors of the Authority in addition to the Chair of the Authority.

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Part II—Wine Australia

Division 1—Establishment, functions and powers of the Authority

6 Wine Australia

(1) This section applies to the body corporate that was established by section 6 of the *Australian Grape and Wine Authority Act 2013* (as in force immediately before the commencement of this section).

(2) That body corporate continues in existence by force of this section as a body corporate, under and subject to the provisions of this Act, under the name Wine Australia.

Note 1: In this Act, ***Authority*** means the authority known as Wine Australia—see section 4.

Note 2: Subsection 25B(1) of the *Acts Interpretation Act 1901* provides that a body whose name is altered by an Act continues in existence under the new name so that its identity is not affected.

7 Functions of the Authority

The Authority has the following functions:

(a) to investigate and evaluate the requirements for grape or wine research and development;

(b) to coordinate or fund the carrying out of grape or wine research and development activities;

(c) to:

(i) monitor; and

(ii) evaluate; and

(iii) report to the Parliament, the Minister and the representative organisations on;

grape or wine research and development activities that are coordinated or funded, wholly or partly, by the Authority;

(d) to:

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(i) assess; and

(ii) report to the Parliament, the Minister and the representative organisations on;

the impact, on the grape industry or wine industry, of grape or wine research and development activities that are coordinated or funded, wholly or partly, by the Authority;

(e) to facilitate the dissemination, adoption and commercialisation of the results of grape or wine research and development;

(ea) to implement, facilitate and administer programs, as directed by the Minister, in relation to:

(i) wine; and

(ii) cider (as defined by section 33-1 of the *A New Tax System (Wine Equalisation Tax) Act 1999*); and

(iii) international wine tourism, and services, products and experiences that complement international wine tourism;

(eb) to administer grant programs in relation to wine (as defined by section 33-1 of the *A New Tax System (Wine Equalisation Tax) Act 1999*), as directed by the Minister;

(f) to control the export of grape products from Australia;

(g) to promote the consumption and sale of grape products, both in Australia and overseas;

(h) such other functions as are conferred on the Authority by:

(i) this Act; or

(ii) the regulations; or

(iii) any other law;

(i) to do anything incidental to, or conducive to, the performance of any of the above functions.

Note: One of the Authority's functions under the regulations is to establish, maintain and make publicly available a Label Directory.

7A Constitutional limits

The Authority may perform its functions only:

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(a) for purposes relating to trade or commerce:
  (i) between Australia and places outside Australia; or
  (ii) among the States; or
  (iii) within a Territory, between a State and a Territory or between 2 Territories; or

(aa) for purposes relating to bounties on the production or export of goods; or

(b) for purposes related to external affairs, including any of the following:
  (i) enabling Australia to fulfil its obligations under prescribed wine-trading agreements;
  (ii) enabling Australia to fulfil its obligations under other international agreements to which Australia is a party;
  (iii) addressing matters of international concern;
  (iv) by way of the performance of its functions in a place outside Australia; or

(c) for purposes relating to a corporation to which paragraph 51(xx) of the Constitution applies; or

(d) for purposes relating to the collection of statistics; or

(e) by way of the use of a postal, telegraphic, telephonic or other like service within the meaning of paragraph 51(v) of the Constitution; or

(f) by way of the making of a grant of financial assistance to a State or Territory; or

(g) for purposes relating to a Territory; or

(h) with respect to a Commonwealth place (within the meaning of the *Commonwealth Places (Application of Laws) Act 1970*); or

(i) for purposes relating to the implied power of the Parliament to make laws with respect to nationhood; or

(j) for purposes relating to the executive power of the Commonwealth; or

(k) for purposes relating to matters incidental to the execution of any of the legislative powers of the Parliament or the executive power of the Commonwealth.

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7B Uniformity

A power conferred on any person by this Act must not be exercised in such a manner that bounty would not be uniform throughout the Commonwealth within the meaning of paragraph 51(iii) of the Constitution.

8 Powers of the Authority

General power

(1) Subject to this Act, the Authority has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

Specific powers

(2) Without limiting the generality of subsection (1), the powers of the Authority referred to in that subsection include power:

(aaa) to do anything for the purpose of giving effect to a prescribed wine-trading agreement; and

(aa) to determine any conditions of use that are to be applicable to any registered geographical indications and any registered translations of such indications; and

(ac) to determine in relation to a foreign country:

(i) any traditional expressions that are to be registered in relation to wines originating in that country (being traditional expressions that are recognised in the laws and regulations of that country for the purpose of the description and presentation of wine); and

(ii) any conditions of use that are to be applicable to any or all of those expressions; and

(ad) to determine:

(i) in relation to Australia—any terms that are to be registered as additional terms in relation to wines originating in Australia (being terms that are required to be protected for the purpose of the description and presentation of wine); and

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(ii) in relation to a foreign country—any terms that are to be registered as additional terms in relation to wines originating in that country (being terms that are recognised in the laws and regulations of that country for the purpose of the description and presentation of wine); and

(iii) in relation to a particular wine (regardless of origin)—any terms that are to be registered as additional terms in relation to that wine; and

(iv) any conditions of use that are to be applicable to any or all of the terms referred to in subparagraphs (i) to (iii); and

(a) to control the export of grape products from Australia by determining the persons, other than the Authority, who shall be permitted to export grape products and the conditions under which such exports will be permitted; and

(b) at the request of a person engaging, or proposing to engage, in the export of a grape product, to co-ordinate activities relating to the promotion of the export of the grape product; and

(c) where a grape product proposed to be exported from Australia to a foreign country meets the requirements of that country for importation into that country, issue certificates that the product meets those requirements; and

(d) to the extent required to promote the consumption and sale of grape products in Australia or overseas, to buy, sell or otherwise engage in trade in grape products and do all things necessary or convenient for engaging in that trade; and

(e) to engage, or make arrangements with, persons, organisations or companies to perform work, or act as agent, for the Authority, whether in Australia or overseas; and

(f) to charge such fees as are fair and proper to enable the Authority to meet costs incurred by the Authority in administering licensing arrangements relating to the export of grape products (including costs in relation to the grant or renewal of licences) and in ensuring that persons who are licensed to export grape products comply with the conditions

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under which the export of the grape products is permitted; and

(g) to charge for the provision of goods or services, or the performance of work, by, or on behalf of, the Authority; and

(ga) without limiting paragraph (g), to charge fees for the provision of services, or the performance of work, by or on behalf of:

(i) the Authority; or

(ii) the Geographical Indications Committee established by section 40N;

in relation to the determination of geographical indications and translations of such indications by the Geographical Indications Committee (including determinations for the omission of such indications and translations); and

(h) to waive the payment of fees and charges payable to the Authority; and

(k) to make applications, including joint applications, for patents; and

(l) to deal with patents vested in the Authority or in the Authority and other persons; and

(m) to accept gifts, grants, bequests and devises made to the Authority, and act as trustee of money and other property vested in the Authority on trust; and

(n) to join in the formation of a company.

Requirements for determinations by the Authority

(2A) A determination under paragraph (2)(aa), (ac) or (ad) is to be in writing under the Authority's seal.

(2B) When the Authority makes a determination referred to in subsection (2A), the Chair must cause a notice stating that the determination has been made and setting out the terms of the determination to be published in any manner that the Authority thinks appropriate.

(2C) The notice must include a statement to the effect that:

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(a) subject to the *Administrative Appeals Tribunal Act 1975*, application may be made, by or on behalf of any person whose interests are affected by the determination, to the Administrative Appeals Tribunal for review of the determination; and

(b) unless subsection 28(4) of that Act applies, application may be made in accordance with section 28 of that Act by or on behalf of the person for a statement in writing setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the determination.

(2D) Any failure to comply with subsection (2C) in relation to a determination does not affect the validity of the determination.

Review of determinations

(2E) Application may be made to the Administrative Appeals Tribunal for review of a determination.

(2F) Section 29 of the *Administrative Appeals Tribunal Act 1975* has effect in relation to an application for review of a determination as if the following subsections were inserted after subsection (1):

‘(1AA) Despite paragraph (1)(d) and subsection (2), an application to the Tribunal for review of a determination made under paragraph 8(2)(aa), (ac) or (ad) of the *Wine Australia Act 2013* must be made within 28 days after notice of the determination is published in accordance with subsection 8(2B) of that Act.

‘(1AB) Despite subsection (8), an application under subsection (7) in respect of a determination under paragraph 8(2)(aa), (ac) or (ad) of the *Wine Australia Act 2013* must be made before the time fixed by subsection (1A) ends.’.

Inclusion of particulars in the Register

(2G) The Chair must give a copy of the determination to the Registrar so that particulars of the determination can be included in the Register:

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(a) if an application is duly made to the Administrative Appeals Tribunal for review of the determination—as soon as practicable after the decision of the Tribunal on the review is given; or

(b) otherwise—as soon as practicable after the 28th day after notice of the determination is published in accordance with subsection (2B).

(2H) The determination takes effect on the day on which particulars of the determination are included in the Register.

Consistency with corporate and operational plans

(3) Subject to subsection 31K(4), the Authority shall endeavour to ensure, to the extent that it is practicable to do so, that the performance at any time of its functions and the exercise at any time of its powers is consistent with, and designed to give effect to, the provisions of any corporate plan and of any annual operational plan in force at that time.

10 Power to enter into arrangements etc.

Without limiting the generality of section 8, the Authority may enter into arrangements or agreements (including arrangements or agreements under which money is, or may become, payable by the Commonwealth) with persons, authorities or organizations in Australia or overseas, or, with the consent of the Minister, with a State, for the purposes of the Authority.

Note: For a grant of financial assistance to a State relating to grape or wine research and development activities, see section 10C.

10A Agreements for carrying out grape or wine research and development activities by other persons

(1) The Authority may enter into an agreement with a person for the carrying out of grape or wine research and development activities by the person.

(2) The agreement may:

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(a) provide for:
  (i) the money provided under the agreement; and
  (ii) any property acquired or goods produced with that money, or with money that includes that money;
to be used for the purposes specified in the agreement; and

(b) provide for the payment by the person to the Authority of an amount equal to the whole, or such part as the Authority determines, of the money provided under the agreement if any of the money, property or goods referred to in paragraph (a) is or are used for a purpose not specified in the agreement; and

(c) make provision with respect to:
  (i) assigning inventions and interests in inventions; and
  (ii) applying for patents for inventions; and
  (iii) commercially exploiting patented inventions; and
  (iv) granting licences under patented inventions;
where the inventions are made in the course of undertaking grape or wine research and development activities or doing anything else with that money or with money that includes that money; and

(d) provide for the payment by the person to the Authority of an amount equal to the whole, or such part as the Authority determines, of any net income derived by the person from:
  (i) the money, property or goods referred to in paragraph (a); or
  (ii) patents or interests referred to in paragraph (c); and

(e) provide for the assignment by the person to the Authority of any money, property, goods, patents or interests referred to in paragraph (d); and

(f) provide for the payment by the person to the Authority of an amount of money determined by the Authority in accordance with the agreement in the event of the disposal (otherwise than to the Authority) of any property, goods, patents or interests referred to in paragraph (d).

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(3) Subsection (2) does not limit the matters that may be included in the agreement.

(4) This section does not limit section 8.

10B Agreements for carrying out grape or wine research and development activities with other persons

(1) The Authority may enter into an agreement (including a joint venture agreement or a partnership agreement) with a person for grape or wine research and development activities to be carried out by the Authority and the person.

(2) The agreement must specify:

(a) the objectives of the grape or wine research and development activities; and

(b) the expected duration of the grape or wine research and development activities; and

(c) the nature and extent of the contribution to be made by the Authority towards the grape or wine research and development activities; and

(d) the basis for the distribution of profits and other benefits derived from the grape or wine research and development activities.

(3) Subsection (2) does not limit the matters that may be included in the agreement.

(4) This section does not limit section 8.

10C Grants relating to grape or wine research and development activities

(1) The Authority may make a grant of financial assistance to a State if the grant relates to grape or wine research and development activities.

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(2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Authority and the State.

(3) For the purposes of this section, ***State*** includes:
  (a) the Australian Capital Territory; and
  (b) the Northern Territory.

10D Consultations with persons and organisations

(1) The Authority may make arrangements for consulting:
  (a) persons and bodies representative of the grape industry or the wine industry (including any of the representative organisations); and
  (b) Commonwealth, State and Territory authorities concerned with the grape industry or the wine industry.

(2) Arrangements made by the Authority under subsection (1) may provide for:
  (a) the Authority agreeing to meet travel expenses reasonably incurred by a person in connection with consultations with the Authority; and
  (b) subject to written guidelines given to the Authority by the Minister, the Authority agreeing to meet expenses (other than travel expenses) reasonably incurred by a representative organisation, or a member of a representative organisation, in connection with consultations with the Authority.

(3) Subsection (2) does not limit subsection (1).

(4) This section does not limit section 8.

11 Committees

(1) The Authority may appoint a committee to assist the Authority in relation to a matter.

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(1A) Without limiting subsection (1), the Authority may appoint a committee under that subsection to perform the functions appropriate for an executive committee of the Authority.

(2) A committee established under this section shall consist of such persons, including at least 1 director of the Authority, as the Authority thinks fit.

11A Authority does not have privileges and immunities of the Crown

The Authority does not have the privileges and immunities of the Crown in right of the Commonwealth.

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Division 2—Constitution and membership of the Authority

12 Constitution of the Authority

(1) The Authority:
  (a) is a body corporate with perpetual succession; and
  (b) must have a seal; and
  (c) may acquire, hold and dispose of real and personal property; and
  (d) may sue and be sued in its corporate name.

Note: The *Public Governance, Performance and Accountability Act 2013* applies to the Authority. That Act deals with matters relating to corporate Commonwealth entities, including reporting and the use and management of public resources.

(2) The seal of the Authority is to be kept in such custody as the Authority directs and must not be used except as authorised by the Authority.

(3) All courts, judges and persons acting judicially must:
  (a) take judicial notice of the imprint of the seal of the Authority appearing on a document; and
  (b) presume that the document was duly sealed.

13 Membership of the Authority

The Authority consists of the following directors:
  (a) a Chair;
  (b) at least 5, and not more than 7, other directors.

14 Appointment of directors of the Authority

(1) Each director of the Authority is to be appointed by the Minister by written instrument.

Note: The director of the Authority is eligible for reappointment: see the *Acts Interpretation Act 1901*.

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(2) A person is not eligible for appointment as a director of the Authority unless the Minister is satisfied that the person is suitably qualified for appointment because of expertise in one or more of the following fields:
   (a) grape growing;
   (b) winemaking;
   (c) marketing;
   (d) finance;
   (e) business management and administration;
   (f) government policy processes and public administration;
   (g) strategic management;
   (h) administration of research and development;
   (i) technology;
   (j) law;
   (k) human resource management;
   (l) communications.

(3) A person is not eligible for appointment as a director of the Authority if the person is a member of the executive of a representative organisation.

(4) The directors of the Authority (other than the Chair) are to be appointed from persons:
   (a) nominated by the Authority Selection Committee in accordance with section 27G; or
   (b) included on a list, given to the Minister under subparagraph 27G(1)(b)(ii), of persons the Authority Selection Committee considers suitable for nomination.

(5) Before appointing the Chair of the Authority, the Minister must consult:
   (a) if there are already one or more directors of the Authority (other than the Chair)—those directors; and
   (b) in any case—each representative organisation.

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(6) In appointing directors of the Authority, the Minister must have regard to whether the directors of the Authority will collectively possess:

(a) an appropriate balance of expertise in as many as possible of the fields referred to in subsection (2); and

(b) experience in board affairs; and

(c) appropriate diversity.

(7) A director of the Authority holds office on a part-time basis.

15 Period of appointment for directors of the Authority

(1) A director of the Authority holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

Note: For reappointment, see the *Acts Interpretation Act 1901*.

(2) A director of the Authority must not be reappointed on more than one occasion.

16 Acting directors of the Authority

Acting Chair of the Authority

(1) The Minister may appoint a person to act as the Chair of the Authority:

(a) during a vacancy in the office of the Chair of the Authority (whether or not an appointment has previously been made to the office); or

(b) during any period, or during all periods, when the Chair of the Authority:

(i) is absent from duty or Australia; or

(ii) is, for any reason, unable to perform the duties of the office.

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Acting director of the Authority (other than the Chair of the Authority)

(2) The Minister may appoint a person to act as a director of the Authority (other than the Chair of the Authority):

(a) during a vacancy in the office of a director of the Authority (other than the Chair of the Authority), whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when a director of the Authority (other than the Chair of the Authority):

(i) is absent from duty or Australia; or

(ii) is, for any reason, unable to perform the duties of the office.

Eligibility

(3) A person is not eligible for appointment to act as:

(a) the Chair of the Authority; or

(b) a director of the Authority (other than the Chair of the Authority);

unless the person is eligible for appointment as a director of the Authority.

Note 1: See subsections 14(2) and (3).

Note 2: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

17 Deputy Chair

(1) The Authority may, in writing, appoint a director (other than the Chair) to be the Deputy Chair of the Authority for such period as is specified in the instrument of appointment.

(2) The Deputy Chair holds office until:

(a) his or her term of office as Deputy Chair expires; or

(b) he or she ceases to be a director of the Authority; or

(c) the Authority terminates the appointment;

whichever first happens.

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Resignation

(3) A director of the Authority may resign an appointment as Deputy Chair by giving the Chair a written notice of resignation.

(4) The resignation takes effect on the day it is received by the Chair or, if a later day is specified in the resignation, on that later day.

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Division 3—Terms and conditions for directors of the Authority

18 Remuneration

(1) A director of the Authority is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, a director of the Authority is to be paid the remuneration that is prescribed by the regulations.

(2) A director of the Authority is to be paid the allowances that are prescribed by the regulations.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

19 Disclosure of interests

For the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests), a director who is a grape grower or a winemaker is not taken to have a material personal interest that relates to the affairs of the Authority by reason only of being a grape grower or a winemaker.

20 Outside employment

(1) A director of the Authority must not engage in any paid employment that conflicts or may conflict with the proper performance of his or her duties.

(2) For the purposes of this Division, paid employment as a grape grower or a winemaker is taken not to be paid employment that conflicts with the proper performance of duties.

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21 Leave of absence

The Chair of the Authority may grant leave of absence to a director of the Authority on the terms and conditions that the Chair determines.

22 Resignation

(1) A director of the Authority may resign his or her appointment by giving the Minister a written resignation.

(2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

23 Termination of appointment

(1) The Minister may terminate the appointment of a director of the Authority if the director is unable to perform the duties of his or her office because of physical or mental incapacity.

(2) The Minister may terminate the appointment of a director of the Authority if:

(a) the director:

(i) becomes bankrupt; or

(ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

(iii) compounds with his or her creditors; or

(iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or

(c) the director engages in paid employment that conflicts or may conflict with the proper performance of his or her duties (see section 20); or

(d) the Minister is satisfied that the performance of the director has been unsatisfactory for a significant period; or

(e) the director is absent, except on leave of absence, from 3 consecutive meetings of the Authority.

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Note: The appointment of a director may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).

(3) The Minister must terminate the appointment of a director of the Authority if the director becomes a member of the executive of a representative organisation.

24 Other terms and conditions

A director of the Authority holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

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Division 4—Decision-making by the Authority

25 Holding of meetings

(1) The Authority is to hold such meetings as are necessary for the performance of its functions.

(2) The Chair of the Authority may convene a meeting at any time.

26 Presiding at meetings

(1) The Chair of the Authority presides at all meetings at which he or she is present.

(2) If the Chair of the Authority is not present at a meeting:
   (a) the Deputy Chair must preside; or
   (b) if the Deputy Chair is not present—the directors of the Authority present must appoint one of themselves to preside.

26A Quorum

(1) At a meeting of the Authority, a quorum is constituted by a majority of directors.

(2) However, if:
   (a) a director of the Authority is required by rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* not to be present during the deliberations, or to take part in any decision, of the Authority with respect to a particular matter; and
   (b) when the director leaves the meeting concerned there is no longer a quorum present;

the remaining directors at the meeting constitute a quorum for the purpose of any deliberation or decision at that meeting with respect to that matter.

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26B Voting at meetings etc.

(1) At a meeting of the Authority, a question is decided by a majority of the votes of directors of the Authority present and voting.

(2) The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

26C Conduct of meetings

(1) The Authority may, subject to this Division, regulate proceedings at its meetings as it considers appropriate.

Note: Section 33B of the *Acts Interpretation Act 1901* provides for participation in meetings by telephone etc.

(2) The Authority may invite a person to attend a meeting of the Authority for the purpose of advising or informing the Authority on any matter.

(3) A person referred to in subsection (2) is to be paid such fees, allowances and expenses (if any) as the Authority determines in respect of the person's attendance at a meeting of the Authority.

26D Minutes

The Authority must keep minutes of its meetings.

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Part IV—Wine Australia Selection Committee

Division 1—Introduction

27A Simplified outline of this Part

- This Part deals with the Authority Selection Committee.
- The functions of the Committee are:
  - (a) to select persons to be nominated for appointment as directors of the Authority (other than the Chair); and
  - (b) to nominate persons so selected to the Minister for appointment as directors of the Authority; and
  - (c) to give the Minister a list of other persons the Authority Selection Committee considers suitable for nomination and the details of their qualifications and experience.

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Division 2—Establishment, functions and powers of the Authority Selection Committee

27B Authority Selection Committee

(1) This section applies to the committee that was established by section 27B of the *Australian Grape and Wine Authority Act 2013* (as in force immediately before the commencement of this section).

(2) That committee continues in existence by force of this section as a committee, under and subject to the provisions of this Act, under the name Wine Australia Selection Committee.

Note 1: In this Act, ***Authority Selection Committee*** means the Wine Australia Selection Committee—see section 4.

Note 2: Subsection 25B(1) of the *Acts Interpretation Act 1901* provides that a body whose name is altered by an Act continues in existence under the new name so that its identity is not affected.

27C Functions of the Authority Selection Committee

The functions of the Authority Selection Committee are:

(a) to select persons to be nominated for appointment as directors of the Authority (other than the Chair); and

(b) to nominate persons so selected to the Minister for appointment as directors of the Authority; and

(c) to give the Minister a list of other persons the Authority Selection Committee considers suitable for nomination and the details of their qualifications and experience.

27D Powers of the Authority Selection Committee

The Authority Selection Committee has power to do all things that are necessary or convenient to be done for, or in connection with, the performance of its functions.

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27E Minister may request nominations

The Minister may, by written notice given to the Presiding Member of the Authority Selection Committee, request the Authority Selection Committee to give to the Minister, within the period specified in the notice, a specified number of written nominations of persons for appointment as a director or directors of the Authority (other than the Chair).

27F Selection of persons by the Authority Selection Committee

(1) The Authority Selection Committee must not nominate a person for appointment as a director of the Authority unless the person is eligible for that appointment.

(2) The Authority Selection Committee must not nominate a person for appointment as a director of the Authority if:
  (a) the person is a member of the Authority Selection Committee; or
  (b) the person has been a member of the Authority Selection Committee at any time during the 12-month period preceding the nomination.

27G Nominations

(1) If the Minister gives a request to the Presiding Member of the Authority Selection Committee under section 27E:
  (a) the Authority Selection Committee must, before the end of the period specified in the notice, select persons to be nominated for appointment to the office or offices concerned; and
  (b) the Presiding Member of the Authority Selection Committee must, on behalf of the Authority Selection Committee, before the end of that period:
    (i) give to the Minister the number of nominations specified in the request; and
    (ii) make a list of any other persons the Authority Selection Committee considers suitable for nomination (and the

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details of their qualifications and experience) and give the list to the Minister.

(1A) The Authority Selection Committee must not include a person on the list given to the Minister under subparagraph (1)(b)(ii) unless, within the 12-month period preceding the giving of the list:

(a) the Committee considered the person suitable for nomination; and

(b) the person was not so nominated.

(2) If the Authority Selection Committee proposes to nominate a person for appointment as a director of the Authority, the Presiding Member of the Authority Selection Committee must cause to be prepared and attached to the nomination a statement setting out:

(a) details of the person's qualifications and experience; and

(b) such other information relating to the person as the Authority Selection Committee thinks will assist the Minister in considering whether to appoint the person.

(3) The Authority Selection Committee may nominate a person for appointment even though:

(a) the Minister has previously rejected a nomination of that person; or

(b) the Authority Selection Committee has previously decided not to nominate the person for appointment.

27H Minister may reject nominations

If the Minister is not satisfied that a person nominated by the Authority Selection Committee for appointment as a director of the Authority, or any person included on the list given to the Minister under subparagraph 27G(1)(b)(ii), should be appointed as such a director, the Minister may make a further request under section 27E for a specified number of nominations of persons for appointment to the office concerned.

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Division 3—Membership of the Authority Selection Committee

27J Membership of the Authority Selection Committee

The Authority Selection Committee consists of the following members:

(a) a Presiding Member;

(b) not more than 4 other members.

27K Appointment of members of the Authority Selection Committee

(1) Each member of the Authority Selection Committee is to be appointed by the Minister by written instrument.

Note: A member of the Authority Selection Committee is eligible for reappointment: see the *Acts Interpretation Act 1901*.

(2) A member of the Authority Selection Committee holds office on a part-time basis.

(3) A member of the Authority Selection Committee (other than the Presiding Member) must be a person who has been nominated by a representative organisation.

(4) A person who is a director of the Authority is not eligible to be appointed as a member of the Authority Selection Committee.

27L Period of appointment for members of the Authority Selection Committee

A member of the Authority Selection Committee holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

Note: For reappointment, see the *Acts Interpretation Act 1901*.

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27M Acting Presiding Member of the Authority Selection Committee

The Minister may appoint a person to act as the Presiding Member of the Authority Selection Committee:

(a) during a vacancy in the office of the Presiding Member of the Authority Selection Committee (whether or not an appointment has previously been made to the office); or

(b) during any period, or during all periods, when the Presiding Member of the Authority Selection Committee:

(i) is absent from duty or Australia; or

(ii) is, for any reason, unable to perform the duties of the office.

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Division 4—Terms and conditions for members of the Authority Selection Committee

27N Remuneration

(1) A member of the Authority Selection Committee is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, a member of the Authority Selection Committee is to be paid the remuneration that is prescribed by the regulations.

(2) A member of the Authority Selection Committee is to be paid the allowances that are prescribed by the regulations.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

27P Disclosure of interests to the Minister

A member of the Authority Selection Committee must give written notice to the Minister of all interests, pecuniary or otherwise, that the member has or acquires and that conflict or could conflict with the proper performance of the member's functions.

27Q Disclosure of interests to the Authority Selection Committee

(1) A member of the Authority Selection Committee who has an interest, pecuniary or otherwise, in a matter being considered or about to be considered by the Authority Selection Committee must disclose the nature of the interest to a meeting of the Authority Selection Committee.

(2) The disclosure must be made as soon as possible after the relevant facts have come to the knowledge of the member of the Authority Selection Committee.

(3) The disclosure must be recorded in the minutes of the meeting of the Authority Selection Committee.

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(4) Unless the Authority Selection Committee otherwise determines, the member of the Authority Selection Committee:
  (a) must not be present during any deliberation by the Authority Selection Committee on the matter; and
  (b) must not take part in any decision of the Authority Selection Committee with respect to the matter.

(5) For the purposes of making a determination under subsection (4), the member of the Authority Selection Committee:
  (a) must not be present during any deliberation of the Authority Selection Committee for the purpose of making the determination; and
  (b) must not take part in making the determination.

(6) A determination under subsection (4) must be recorded in the minutes of the meeting of the Authority Selection Committee.

(7) A member of the Authority Selection Committee who is a grape grower or a winemaker is taken not to have an interest (pecuniary or otherwise) in a matter being considered or about to be considered by the Authority Selection Committee by reason only of being a grape grower or a winemaker.

27R Outside employment

(1) A member of the Authority Selection Committee must not engage in any paid employment that conflicts or may conflict with the proper performance of his or her duties.

(2) For the purposes of this Division, paid employment as a grape grower or a winemaker is taken not to be paid employment that conflicts with the proper performance of duties.

27S Leave of absence

(1) The Minister may grant leave of absence to the Presiding Member of the Authority Selection Committee on the terms and conditions that the Minister determines.

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(2) The Presiding Member of the Authority Selection Committee may grant leave of absence to a member of the Authority Selection Committee on the terms and conditions that the Presiding Member determines.

27T Resignation

(1) A member of the Authority Selection Committee may resign his or her appointment by giving the Minister a written resignation.

(2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

27U Termination of appointment

(1) The Minister may terminate the appointment of a member of the Authority Selection Committee if the member is unable to perform the duties of his or her office because of physical or mental incapacity.

(2) The Minister may terminate the appointment of a member of the Authority Selection Committee if:

(a) the member:

(i) becomes bankrupt; or

(ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or

(iii) compounds with his or her creditors; or

(iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or

(b) the member fails, without reasonable excuse, to comply with section 27P or 27Q; or

(c) the member engages in paid employment that conflicts or may conflict with the proper performance of his or her duties (see section 27R); or

(d) the member is absent, except on leave of absence, from 3 consecutive meetings of the Authority Selection Committee.

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27V Other terms and conditions

A member of the Authority Selection Committee holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

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Division 5—Decision-making by the Authority Selection Committee

27W Holding of meetings

(1) The Authority Selection Committee is to hold such meetings as are necessary for the performance of its functions.

(2) The Presiding Member of the Authority Selection Committee may convene a meeting at any time.

27X Presiding at meetings

(1) The Presiding Member of the Authority Selection Committee presides at all meetings at which he or she is present.

(2) If the Presiding Member of the Authority Selection Committee is not present at a meeting, the members of the Authority Selection Committee present must appoint one of themselves to preside.

27Y Quorum

At a meeting of the Authority Selection Committee, 2 members of the Authority Selection Committee constitute a quorum.

27Z Voting at meetings etc.

(1) At a meeting of the Authority Selection Committee, a question is decided by a majority of the votes of members of the Authority Selection Committee present and voting.

(2) The person presiding at a meeting has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

27ZA Conduct of meetings

The Authority Selection Committee may, subject to this Division, regulate proceedings at its meetings as it considers appropriate.

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Note: Section 33B of the *Acts Interpretation Act 1901* provides for participation in meetings by telephone etc.

27ZB Minutes

The Authority Selection Committee must keep minutes of its meetings.

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Division 6—Other matters

27ZC Staff and consultants

(1) The Presiding Member of the Authority Selection Committee may, on behalf of the Authority Selection Committee, engage persons to perform administrative and clerical services in connection with the performance of its functions.

(2) The Presiding Member of the Authority Selection Committee may, on behalf of the Authority Selection Committee, engage persons having suitable qualifications and experience as consultants to the Authority Selection Committee.

(3) The terms and conditions of engagement of persons engaged under subsection (1) or (2) are as determined by the Authority Selection Committee.

27ZE Definitions

In this Part:

Chair means the Chair of the Authority.

director means a director of the Authority, and includes the Chair.

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Part IVB—Annual general meeting of the grape industry and the wine industry

29U Interpretation

(1) In this Part, unless the contrary intention appears:

eligible producer, in relation to a year, means a person on the list of producers prepared in that year.

list of producers means a list of persons prepared under section 29V.

(2) For the purposes of this Part and of regulations made for the purposes of this Part, where 2 or more persons become liable to pay wine grapes levy or wine export charge, because they are members of a partnership or are the trustees of a trust estate, that partnership or trust estate shall be taken to be the person liable to pay that levy or charge.

(3) Where, under this Part, rights are conferred upon a body corporate, a partnership or a trust estate to participate at an annual general meeting, those rights shall be exercised by a natural person appointed, in writing, for the purpose by the body corporate, the members of the partnership or the trustees of the trust estate, as the case may be.

29V List of producers

(1) As soon as practicable after each 30 September, the Department must prepare and give to the Authority a list of the persons who the Department, at the time of the preparation of the list, knows became liable to pay:

(a) wine grapes levy; or

(b) wine export charge;

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in respect of the year that ended on 30 June immediately preceding that 30 September.

(2) The Authority must not use a list of persons prepared under this section except for the purposes of this Part.

29W Authority to convene annual general meeting

(1) The Authority may cause an annual general meeting of the grape industry and the wine industry to be convened at a time and place determined by the Authority.

(2) The Authority must convene an annual general meeting under subsection (1) if requested to do so by a representative organisation.

(3) If, during a year, 10 or more eligible producers for the year jointly request the Authority to convene an annual general meeting under subsection (1), the Authority must comply with that request.

(4) A request under subsection (2) or (3) must be in writing.

29X Purpose of annual general meeting

The purpose of an annual general meeting is to provide an opportunity for eligible producers:

(a) to consider the most recent annual report of the Authority; and

(b) to receive an address by the Chair with respect to:

(i) the performance of the Authority in the year to which the annual report relates; and

(ii) the economic outlook for the grape industry and the wine industry, and the intended activities of the Authority, in the year next following that year; and

(c) to question the directors of the Authority concerning any aspect of:

(i) the Authority's activities during the year to which the annual report relates; or

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(ii) the intended activities of the Authority; and

(d) to debate, and vote upon, any motion relating to a matter within the responsibilities of the Authority.

29Y Conduct of annual general meeting

(1) An annual general meeting may be attended by:

(a) the directors of the Authority;

(b) eligible producers for the year in which the meeting is held;

(c) persons invited by the Authority to attend the meeting; and

(d) such members of the staff of the Authority as the Chair determines to be appropriate having regard to the business of the meeting.

(2) The Chair shall preside at an annual general meeting at which he or she is present.

(3) The Authority shall cause a record to be kept of the proceedings of an annual general meeting of the grape industry and the wine industry.

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Part V—Staff and consultants

30 Employees

(1) The Authority may engage such employees as it thinks necessary for the purposes of this Act.

(2) The terms and conditions of employment (including remuneration) of the principal employee are to be such as are determined by the Authority.

(3) The terms and conditions of employment (including remuneration) of an employee, other than the principal employee, are to be such as are determined by the Authority.

30A Consultants

(1) The Authority may engage persons having suitable qualifications and experience as consultants to the Authority.

(2) The consultants are to be engaged on the terms and conditions that the Authority determines in writing.

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Part VA—Operation of Authority

Division 1—Corporate plans

31 Corporate plans—5-year periods

(1) The Authority must:

(a) prepare a corporate plan for each designated 5-year period; and

(b) give it to the Minister.

Note 1: For ***designated 5-year period***, see subsection (11).

Note 2: The Authority is not required to give a corporate plan under section 35 of the *Public Governance, Performance and Accountability Act 2013* (see subsection (13) of this section).

(2) The plan must include details of the following matters:

(a) the principal objectives of the Authority;

(b) the strategies and policies that are to be followed by the Authority in order to achieve those objectives;

(c) the objectives and priorities of the Authority relating to grape or wine research and development;

(d) the strategies and policies that are to be followed by the Authority in order to achieve those objectives and priorities;

(e) such other matters (if any) as the Minister requires.

(3) The plan must set out the Authority's assessment, for the period to which the plan relates, of the market outlook and the economic outlook for the grape industry and the wine industry.

(4) A corporate plan prepared under this section is of no effect unless the plan has been approved in writing by the Minister.

Varying a corporate plan

(5) The Authority may vary a corporate plan that was prepared under this section.

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(6) A variation of such a corporate plan is of no effect unless the variation has been approved in writing by the Minister.

Other matters

(7) The Chair must keep the Minister informed about matters that might significantly affect the achievement of the objectives or priorities set out in a corporate plan that was prepared under this section.

(8) The Minister may give the Chair written guidelines that are to be used by the Chair in deciding whether a matter is covered by paragraph (2)(e) or subsection (7).

(9) Before preparing or varying a corporate plan under this section, the Authority must consult each representative organisation.

(10) None of the following is a legislative instrument:
- (a) a requirement under paragraph (2)(e) that is in writing;
- (b) an approval under subsection (4);
- (c) an approval under subsection (6);
- (d) a guideline given under subsection (8).

(11) For the purposes of this section, each of the following is a ***designated 5-year period***:
- (a) the 5-year period beginning on 1 July 2015;
- (b) each succeeding 5-year period.

(12) The Authority must ensure that the first corporate plan it prepares under this section is given to the Minister before 1 May 2015.

(13) Section 35 of the *Public Governance, Performance and Accountability Act 2013* (which deals with corporate plans) does not apply to the Authority.

31A Corporate plan—initial period

(1) The Authority must:

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(a) prepare a corporate plan within 3 months after the commencement of this subsection; and
(b) give it to the Minister.

(2) The plan must cover the period:
(a) beginning when the plan takes effect; and
(b) ending at the end of 30 June 2015.

(3) The plan must include details of the following matters:
(a) the principal objectives of the Authority;
(b) the strategies and policies that are to be followed by the Authority in order to achieve those objectives;
(c) the objectives and priorities of the Authority relating to grape or wine research and development;
(d) the strategies and policies that are to be followed by the Authority in order to achieve those objectives and priorities;
(e) such other matters (if any) as the Minister requires.

(4) The plan must set out the Authority's assessment, for the period to which the plan relates, of the market outlook and the economic outlook for the grape industry and the wine industry.

(5) The plan is of no effect unless it has been approved in writing by the Minister.

Varying the corporate plan

(6) The Authority may vary the plan.

(7) A variation of the plan is of no effect unless the variation has been approved in writing by the Minister.

Other matters

(8) The Chair must keep the Minister informed about matters that might significantly affect the achievement of the objectives or priorities set out in the plan.

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(9) The Minister may give the Chair written guidelines that are to be used by the Chair in deciding whether a matter is covered by paragraph (3)(e) or subsection (8).

(10) None of the following is a legislative instrument:

(a) a requirement under paragraph (3)(e) that is in writing;

(b) an approval under subsection (5);

(c) an approval under subsection (7);

(d) a guideline given under subsection (9).

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Division 2—Annual operational plans

31F Authority to develop annual operational plans

(1) Subject to subsection (2), the Authority shall, in relation to each financial year of a period to which a corporate plan relates or to which an intended corporate plan will relate, develop an annual operational plan setting out particulars of the action that the Authority intends to take in order to give effect to or further, during that year, the matters set out in that corporate plan.

(1A) The Authority must ensure that the first annual operational plan is developed within 3 months after the commencement of this subsection.

(2) The first annual operational plan shall relate to the period commencing on the day on which the first corporate plan comes into force and ending on the first 30 June after that day and, for the purposes of the operation of subsection (1) in relation to that first annual operational plan, references in that subsection to a financial year shall be read as references to the period to which that first plan relates.

(3) Each subsequent annual operational plan shall relate to the financial year commencing immediately after the end of the period to which the previous annual operational plan related.

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Division 3—Directions

31K Directions to Authority and Geographical Indications Committee

(1) Except as provided by this section and the *Public Governance, Performance and Accountability Act 2013*, the Authority is not subject to direction by or on behalf of the Australian Government.

(2) Subject to this section, where the Minister is satisfied that, because of the existence of exceptional circumstances, it is necessary to give a direction to the Authority in order to ensure that the performance of the functions, or the exercise of the powers, of the Authority does not conflict with major government policies, the Minister may, by notice in writing to the Authority, give the direction to the Authority with respect to the performance of its functions and the exercise of its powers.

(3) The Minister shall not give a direction under subsection (2) unless and until the Minister has given the Chair:

(a) notice in writing that the Minister is contemplating giving the direction; and

(b) an adequate opportunity to discuss with the Minister the need for the proposed direction.

(4) The Authority shall comply with any direction given under subsection (2).

(5) Where the Minister gives a direction to the Authority under subsection (2):

(a) the Minister shall cause a notice in writing setting out particulars of the direction to be published in the *Gazette* as soon as practicable after giving the direction;

(b) the Minister shall cause a copy of that notice to be laid before each House of the Parliament within 15 sitting days of the House after giving the direction;

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(c) particulars of the direction shall be included in the annual report of the Authority for the year in which the direction was given; and

(d) that report shall include particulars of the impact of that direction on the operations of the Authority.

(6) This section applies in relation to the Geographical Indications Committee in the same way as it applies in relation to the Authority.

(7) For the purposes of this section as it so applies in relation to the Geographical Indications Committee:

(a) references (other than the reference in paragraph (5)(c)) to the Authority are taken to be references to that Committee; and

(b) the reference in subsection (3) to the Chair is taken to be a reference to the Presiding Member of that Committee.

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Part VI—Finance

32 Payments to the Authority

There shall be paid to the Authority out of the Consolidated Revenue Fund, which is appropriated accordingly, amounts equal to:

(aa) amounts received by the Commonwealth as the general component of wine grapes levy; and

(ab) so much of the amounts (if any) received by the Commonwealth under section 15 of the *Primary Industries Levies and Charges Collection Act 1991* as is attributable to non-payment of the general component of wine grapes levy; and

(ac) amounts received by the Commonwealth as wine export charge; and

(ad) so much of the amounts (if any) received by the Commonwealth under section 15 of the *Primary Industries Levies and Charges Collection Act 1991* as is attributable to non-payment of wine export charge; and

(ae) amounts received by the Commonwealth as the research component of wine grapes levy; and

(af) so much of the amounts (if any) received by the Commonwealth under section 15 of the *Primary Industries Levies and Charges Collection Act 1991* as is attributable to non-payment of the research component of wine grapes levy; and

(ag) amounts received by the Commonwealth as grapes research levy; and

(ah) so much of the amounts (if any) received by the Commonwealth under section 15 of the *Primary Industries Levies and Charges Collection Act 1991* as is attributable to non-payment of grapes research levy; and

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(ai) subject to sections 32A and 32B, amounts equal to one-half of the amounts spent by the Authority as mentioned in paragraph 35(1)(ac).

32A Limit on Commonwealth's matching payments

(1) The sum of:

(a) the amounts paid to the Authority under paragraph 32(ai) of this Act; and

(b) the amounts paid to the Grape and Wine Research and Development Corporation before the commencement of this section under paragraph 30(1)(b) of the *Primary Industries Research and Development Act 1989*;

must not exceed the total of:

(c) the sum of the amounts paid to the Authority under paragraphs 32(ae) and (ag) of this Act, less the sum of:

(i) any refunds required to be paid by the Commonwealth in respect of amounts that have been paid or overpaid to the Commonwealth by way of the research component of wine grapes levy; and

(ii) any refunds required to be paid by the Commonwealth in respect of amounts that have been paid or overpaid to the Commonwealth by way of grapes research levy; and

(d) the sum of the amounts paid to the Grape and Wine Research and Development Corporation before the commencement of this section under subparagraphs 30(1)(a)(i) and (ii) of the *Primary Industries Research and Development Act 1989*, less the sum of any refunds in relation to research components of levies attached to the Grape and Wine Research and Development Corporation; and

(e) amounts prescribed by the regulations.

(1A) Subsection (1) does not apply if the regulations so provide.

(2) An expression used in paragraph (1)(d) of this section has the same meaning as it had in the *Primary Industries Research and*

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Development Act 1989 as in force immediately before the commencement of this section.

32B Retention limit for Commonwealth's matching payments

(1) For the purposes of this section, ***gross value of production***, in relation to a financial year, means the gross value of production, for that financial year, of the goods that are produce of the grape industry and the wine industry.

(2) If:

(a) before the end of 31 October next following a financial year, the Minister determines the amount of the gross value of production in relation to the financial year; and

(b) as at the end of 31 October next following the financial year, the sum of the amounts that were paid to the Authority during the financial year under paragraph 32(ai) exceeds 0.5% of the amount of the gross value of production in relation to the financial year as determined by the Minister;

the Authority must pay to the Commonwealth an amount equal to the excess.

(3) If:

(a) before the end of 31 October next following a financial year, the Minister has not determined under subsection (2) the amount of the gross value of production in relation to a financial year; and

(b) the Minister has determined under subsection (2) the amount of the gross value of production in relation to the previous financial year;

the Minister is taken to have made, immediately before the end of that 31 October, a determination under subsection (2) that the amount of the gross value of production in relation to the financial year is equal to the amount of the gross value of production determined under subsection (2) for the previous financial year.

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(4) The Minister may, on behalf of the Commonwealth, set off an amount payable by the Authority under subsection (2) against an amount that is payable to the Authority under paragraph 32(ai).

(5) A determination made under subsection (2) is not a legislative instrument.

(6) The regulations may provide for the manner in which the Minister is to determine the amount of the gross value of production for a financial year.

33 Payments by the Authority to Commonwealth

(3) If:

(a) a refund is made by the Commonwealth under section 18 of the *Primary Industries Levies and Charges Collection Act 1991* in respect of an amount; and

(b) the amount has been paid or overpaid to the Commonwealth by way of wine export charge;

the Authority must pay to the Commonwealth an amount equal to the amount of the refund.

(4) If:

(a) a refund is made by the Commonwealth under section 18 of the *Primary Industries Levies and Charges Collection Act 1991* in respect of an amount; and

(b) the amount has been paid or overpaid to the Commonwealth by way of the general component of wine grapes levy;

the Authority must pay to the Commonwealth an amount equal to the amount of the refund.

(5) If:

(a) a refund is made by the Commonwealth under section 18 of the *Primary Industries Levies and Charges Collection Act 1991* in respect of an amount; and

(b) the amount has been paid or overpaid to the Commonwealth by way of the research component of wine grapes levy;

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the Authority must pay to the Commonwealth an amount equal to the amount of the refund.

(6) If:

(a) a refund is made by the Commonwealth under section 18 of the *Primary Industries Levies and Charges Collection Act 1991* in respect of an amount; and

(b) the amount has been paid or overpaid to the Commonwealth by way of grapes research levy;

the Authority must pay to the Commonwealth an amount equal to the amount of the refund.

34 Borrowing

(1) The Authority may, with the approval of the Minister:

(a) borrow money otherwise than from the Commonwealth; or

(b) raise money otherwise than by borrowing;

on terms and conditions that are specified in, or consistent with, the approval.

(2) Without limiting the generality of subsection (1), the Authority may, under that subsection, borrow money, or raise money otherwise than by borrowing, by dealing with securities.

(3) A borrowing of money, or a raising of money otherwise than by borrowing, under subsection (1), may be made, in whole or in part, in a currency other than Australian currency.

(4) An approval may be given under subsection (1) in relation to a particular transaction or in relation to transactions included in a class of transactions.

(5) An approval under subsection (1) shall be given in writing.

(6) For the purposes of this section:

(a) the issue by the Authority of an instrument acknowledging a debt in consideration of:

(i) the payment or deposit of money; or

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(ii) the provision of credit;

otherwise than in relation to a transaction that is in the ordinary course of the day-to-day operations of the Authority shall be deemed to be a raising by the Authority, otherwise than by borrowing, of an amount of money equal to the amount of the money paid or deposited or the value of the credit provided, as the case may be; and

(b) the obtaining of credit by the Authority otherwise than in relation to a transaction that is in the ordinary course of the day-to-day operations of the Authority shall be deemed to be a raising by the Authority, otherwise than by borrowing, of an amount of money equal to the value of the credit so obtained.

(7) In this section, ***securities*** includes stocks, debentures, debenture stocks, notes, bonds, promissory notes, bills of exchange and similar instruments or documents.

(8) A reference in this section to dealing with securities includes a reference to:

(a) creating, executing, entering into, drawing, making, accepting, indorsing, issuing, discounting, selling, purchasing or re-selling securities;

(b) creating, selling, purchasing or re-selling rights or options in respect of securities; and

(c) entering into agreements or other arrangements relating to securities.

34A Authority may give security

The Authority may give security over the whole or any part of its land or other assets for:

(a) the repayment by the Authority of money borrowed by the Authority under paragraph 34(1)(a) and the payment by the Authority of interest (including any interest on that interest) on money so borrowed; or

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(b) the payment by the Authority of amounts (including any interest) that the Authority is liable to pay with respect to money raised by the Authority under paragraph 34(1)(b).

34B Borrowings not otherwise permitted

The Authority shall not borrow money, or raise money otherwise than by borrowing, except in accordance with section 34.

35 Application of money of the Authority

(1) The moneys of the Authority may be applied only:

(a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Authority in or in connection with the performance of its functions, or the exercise of its powers, under this Act, the regulations or any other law; and

(aa) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Presiding Member of the Authority Selection Committee or the Authority Selection Committee in or in connection with the performance of the functions, or the exercise of the powers, of the Authority Selection Committee under this Act; and

(ab) in payment to the Commonwealth of amounts payable under subsection 32B(2); and

(ac) for the purposes of funding grape or wine research and development activities included in the broad groupings of grape or wine research and development activities specified in an annual operational plan in force when the relevant payments are made; and

(ad) in payment to the Commonwealth of amounts payable under section 36; and

(b) in payment of any remuneration, allowances, fees or expenses payable under this Act; and

(c) in making any other payments that the Authority is authorized or required to make under this Act, the regulations or any other law.

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(1A) Money paid to the Authority under paragraph 32(ae) or (ag) may be applied only for the following purposes:

(a) funding grape or wine research and development activities included in the broad groupings of grape or wine research and development activities specified in an annual operational plan in force when the relevant payments are made;

(b) paying or discharging so much of the expenses, charges, obligations and liabilities incurred or undertaken by the Authority as are attributable to:

(i) the performance of its functions relating to grape or wine research and development; or

(ii) the exercise of its powers relating to grape or wine research and development;

(c) paying to the Commonwealth amounts payable under subsection 32B(2);

(d) paying to the Commonwealth amounts payable under subsection 33(5) or (6);

(e) paying to the Commonwealth amounts payable under section 36, where the amounts are in respect of the collection or recovery of amounts referred to in paragraph 32(ae) or (ag).

Spending must be in accordance with funding agreement

(1B) After 30 June 2015, the Authority must not spend money that has been paid to the Authority by the Commonwealth unless the Authority does so in accordance with a written funding agreement.

(1C) The Minister may enter into a funding agreement with the Authority. The agreement must specify the terms and conditions on which money paid to the Authority by the Commonwealth will be spent.

(1D) A funding agreement must be published on the website of the Authority as soon as practicable after it is made or varied.

(2) Subsections (1) and (1A) do not prevent investment, under section 59 of the *Public Governance, Performance and*

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Accountability Act 2013, of money that is not immediately required for the purposes of the Authority.

36 Commonwealth to be paid levy expenses etc.

The Authority must pay to the Commonwealth amounts equal to the expenses incurred by the Commonwealth in relation to:

(a) the collection or recovery of amounts referred to in paragraph 32(aa), (ab), (ac), (ad), (ae), (af), (ag) or (ah); and

(b) the administration of section 32.

38 Annual report

(1) The annual report prepared by the directors and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must:

(a) include a report on the operations of the Geographical Indications Committee during the period; and

(b) set out all final determinations of geographical indications, and translations of such indications, made by the Committee during the period; and

(c) include particulars of:

(i) the grape or wine research and development activities that the Authority coordinated or funded, wholly or partly, during the period; and

(ii) the amount that the Authority spent during the period in relation to each of those activities; and

(iii) which (if any) of those activities related to ecologically sustainable development; and

(iv) the impact of those activities on the grape industry and the wine industry; and

(v) the entering into of agreements under section 10A during the period, and the Authority's activities during the period in relation to agreements entered into under that section during or before the period; and

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(vi) the entering into of agreements under section 10B during the period, and the Authority's activities during the period in relation to agreements entered into under that section during or before the period; and

(vii) the making of grants under section 10C during the period; and

(viii) the Authority's activities during the period in relation to applying for patents for inventions, commercially exploiting patented inventions and granting licences under patented inventions; and

(ix) the activities of any companies in which the Authority has an interest; and

(x) any activities relating to the formation of a company; and

(xi) significant acquisitions and dispositions of real property by the Authority during the period; and

(d) include an assessment of the extent to which the Authority's operations during the period have:

(i) achieved the Authority's objectives as stated in its corporate plan; and

(ii) implemented the annual operational plan applicable to the period; and

(e) include an assessment of the extent to which the Authority has, during the period, contributed to the attainment of the objects of this Act as set out in section 3.

(2) The annual report must be published on the Authority's website as soon as practicable after the report is tabled in the House of Representatives.

38A Accountability to representative organisations

(1) As soon as practicable after the annual report mentioned in section 38 has been given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013*, the Chair of the Authority must:

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(a) provide copies of the report to each representative organisation; and

(b) make arrangements with each of those organisations to attend:

(i) the organisation's annual conference; or

(ii) a meeting of the organisation's executive;

for the purposes set out in subsection (2).

(2) The purposes mentioned in paragraph (1)(b) are as follows:

(a) to enable the report to be considered;

(b) to enable the Chair to deliver an address in relation to:

(i) the Authority's activities in the period to which the report relates; and

(ii) the Authority's intended activities in the financial year next following the end of that period;

(c) to enable the Chair to be questioned about those activities.

39 Liability to taxation

(1) The Authority is subject to taxation (other than income tax) under the laws of the Commonwealth.

(2) Subject to subsection (3), the Authority is not subject to taxation under a law of a State or Territory.

(3) The regulations may provide that subsection (2) does not apply in relation to taxation under a specified law.

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Part VIA—Label integrity program

Division 1—Preliminary

39A Object of Part

The object of this Part is to advance the objects of this Act by helping to ensure the truth, and the reputation for truthfulness, of statements made on wine labels, or made for commercial purposes in other ways, about the vintage, variety or geographical indication of wine manufactured in Australia.

Note: The Federal Court may grant an injunction under section 44AB if a person has engaged, is engaging or proposes to engage in conduct that contravenes this Part.

39B Operation of Part

Without prejudice to its effect apart from this section, this Part has the effect it would have if the references in it to a person (the ***record keeper***) to whom this Part applies were, by express provision, confined to:

(a) a record keeper who is one of the following (a ***constitutional corporation or partnership***):
  (i) a foreign corporation, within the meaning of paragraph 51(xx) of the Constitution;
  (ii) a trading or financial corporation formed within the limits of the Commonwealth, within the meaning of that paragraph;
  (iii) a corporation that is controlled by a corporation described in subparagraph (i) or (ii);
  (iv) a partnership in which at least one of the partners is a corporation described in subparagraph (i), (ii) or (iii); or

(b) a record keeper by or through whom a constitutional corporation or partnership carries out its business functions and activities; or

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(c) a record keeper who (whether directly or indirectly) supplies wine goods to a constitutional corporation or partnership.

39C Persons to whom this Part applies

(1) This Part applies to the following persons, except as provided by subsection (3):

(a) a person who grows grapes that are wine goods;

(b) a manufacturer of wine goods;

(c) a person who supplies or receives wine goods (including a person who sells the wine goods wholesale or retail or who exports the wine goods);

(d) a person specified by the regulations for the purposes of this section;

(e) an agent who takes possession of wine goods on behalf of a person mentioned in any of paragraphs (a) to (d).

Note: This Part applies only to the extent that the wine goods originate in Australia (see subsection (4)).

(2) For the purposes of paragraph (1)(d), the regulations may specify:

(a) a class of person to whom this Part applies; or

(b) circumstances in which this Part applies to a specified class of person.

(3) The regulations may specify that, despite subsection (1), this Part does not apply to:

(a) a specified class of person; or

(b) a specified class of person in specified circumstances.

(4) This Part applies only to the extent that the wine goods originate in Australia.

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Division 2—Records relating to label claims

39F Obligation to keep records

(1) A person (the ***record keeper***) to whom this Part applies (under section 39C) must keep written records that show the following details in relation to wine goods:

(a) the identity of the record keeper;

(b) the kind of wine goods to which the record relates;

(c) the date the record keeper receives the wine goods;

(d) the identity of the person from whom the wine goods are received by the record keeper;

(e) the quantity of the wine goods received by the record keeper;

(f) the vintage, variety and prescribed geographical indication of the wine goods received by the record keeper;

(g) details of steps taken by the record keeper that changed or affected any of the following:

(i) the vintage, variety or prescribed geographical indication of the wine goods;

(ii) the tank or other place or thing in which the wine goods were stored;

(iii) the volume of the wine goods stored in any such tank, place or thing;

(h) the date the record keeper supplies the wine goods;

(i) the identity of the person to whom the wine goods are supplied by the record keeper;

(j) the quantity of the wine goods that are supplied by the record keeper;

(k) the vintage, variety and prescribed geographical indication of the wine goods supplied by the record keeper;

(l) any other details in relation to the wine goods that are prescribed by the regulations for the purposes of this section.

Note 1: Records are required to be kept only to the extent that wine goods originate in Australia (see subsection 39C(4)).

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Note 2: See section 39G (which deals with when certain details are not required to be kept) and section 39H (which deals with details required under section 39F).

Note 3: A person commits an offence if the person fails to keep a record in accordance with this subsection (see section 39J).

Period for keeping records

(2) A record must be kept under subsection (1) for the period:

(a) beginning:

(i) when the event, circumstance or state of affairs that is required to be recorded occurs; or

(ii) if a record is required to be made before it can be kept—at the end of 3 days after the day that such an event, circumstance or state of affairs occurs; and

(b) ending 7 years after that time.

Note: A person commits an offence if the person fails to keep a record in accordance with this subsection (see section 39J).

Requirement to provide and keep a copy of a record in relation to supply of wine goods

(3) A person who is required to keep a record under subsection (1) must, on the day the person supplies the wine goods, provide a copy of the record kept under paragraphs (1)(h), (j) and (k) to the person to whom the wine goods are supplied.

Note: A person commits an offence if the person fails to provide a copy of a record in accordance with this subsection (see section 39K).

(4) A person to whom wine goods are supplied must keep the copy of the record provided under subsection (3) for the period:

(a) beginning on the day the person receives the copy; and

(b) ending 7 years after that time.

Note: A person commits an offence if the person fails to keep a copy of a record in accordance with this subsection (see section 39K).

(5) To avoid doubt, the same copy of a record may be kept for the purposes of paragraphs (1)(c), (e) and (f) and subsection (4).

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39G When certain details are not required to be kept

Grape growers not required to keep certain records

(1) A person who grows grapes is not required to keep a record showing details required under paragraphs 39F(1)(c) to (f) in relation to the grapes grown.

Suppliers and receivers, and their agents, not required to keep certain records

(2) If:

(a) a person:

(i) supplies or receives wine goods that are packaged in a container for the purpose of sale of the wine goods to a consumer; or

(ii) is an agent who, on behalf of a person covered by subparagraph (i), takes possession of wine goods that are packaged in a container for the purpose of sale of the wine goods to a consumer; and

(b) before the wine goods are sold to a consumer, the person has not taken any steps to change or affect any label claims made about the wine goods;

the person is not required to keep a record showing details required under paragraphs 39F(1)(e) to (l) in relation to that supply, receipt or taking possession of the wine goods.

39H Details required under section 39F

Variety of wines

(1) Details required under paragraph 39F(1)(f) or (k) or subparagraph 39F(1)(g)(i) may show any name by which a variety of wine goods is known (if the variety is known by more than one name).

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Identity of a person

(2) Details required under paragraph 39F(1)(a), (d) or (i) must include:
  (a) sufficient particulars of a person's name and address to identify the person; and
  (b) if the person receives wine goods from or at, or supplies wine goods from or to, a winery—sufficient particulars of the name and address of the winery to identify the winery.

Manufacturing wine

(3) Details required under paragraph 39F(1)(g) in relation to wine goods must be in a form that allows:
  (a) an audit trail containing a history of the changes to the wine goods to be readily traced from the record; and
  (b) details of the steps taken and the results of the steps to be readily checked for discrepancies by following the sequence of the steps recorded.

Blends

(4) Details required under subsection 39F(1) in relation to wine that is a blend of wines (the ***blended wines***) of different vintages, varieties or prescribed geographical indications, must show:
  (a) what proportions of the blend are represented by each blended wine; and
  (b) the vintage, variety or prescribed geographical indication of each blended wine.

Grape extract

(5) Details required under subsection 39F(1) in relation to grape extract derived from grapes of different vintages, varieties or prescribed geographical indications must show:
  (a) what proportions of the wine goods are derived from each kind of grape; and
  (b) the vintage, variety or prescribed geographical indication of each kind of grape.

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39J Offences relating to record-keeping requirements

Failure to keep a record in accordance with requirements

(1) A person commits an offence if:
  (a) the person is a person to whom this Part applies; and
  (b) the person is required to keep records in relation to wine goods under subsections 39F(1) and (2); and
  (c) the person has not kept a record in accordance with subsection 39F(1) or (2), or section 39H, in relation to the wine goods.

Penalty: 2 years imprisonment.

Label claims not supported by records

(2) A person commits an offence if:
  (a) the person is a person to whom this Part applies; and
  (b) the person is required to keep records in relation to wine goods under subsections 39F(1) and (2); and
  (c) the person makes a label claim in relation to the wine goods; and
  (d) either:
    (i) a record kept by the person under those subsections in relation to the wine goods conflicts with the label claim; or
    (ii) the records kept by the person under those subsections are inadequate to support the label claim.

Penalty: 2 years imprisonment.

Keeping a false or misleading record

(3) A person commits an offence if:
  (a) the person is a person to whom this Part applies; and
  (b) the person is required to keep records under subsections 39F(1) and (2) in relation to wine goods; and

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(c) a record kept by the person under those subsections is false or misleading; and

(d) the person knows the record is false or misleading.

Penalty: 2 years imprisonment.

(4) Subsection (3) does not apply if the record is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4). (See subsection 13.3(3) of the *Criminal Code*.)

39K Offences relating to requirement to provide and keep a copy of a record in relation to the supply of wine goods

Failure to provide a copy of a record in relation to the supply of wine goods

(1) A person commits an offence if:

(a) the person is a person to whom this Part applies; and

(b) the person is required to provide a copy of a record in relation to wine goods under subsection 39F(3); and

(c) the person does not provide a copy in accordance with that subsection in relation to the wine goods.

Penalty: 2 years imprisonment.

Failure to keep a copy of a record in relation to the supply of wine goods

(2) A person commits an offence if:

(a) the person is a person to whom this Part applies; and

(b) the person is provided with a copy of a record in relation to wine goods under subsection 39F(4); and

(c) the person does not keep the copy in accordance with that subsection in relation to the wine goods.

Penalty: 2 years imprisonment.

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39L Time for bringing prosecutions

Despite section 15B of the *Crimes Act 1914*, a prosecution for an offence under:

(a) section 39J may be brought at any time within 7 years after the requirement to keep the relevant record arose; and

(b) section 39K may be brought at any time within 7 years after the requirement to provide or keep a copy of the relevant record arose.

39M Single wines and blends etc.

The prosecution does not have to prove, in relation to wine goods, that the wine goods are:

(a) a blend; or

(b) grape extract derived from grapes of different vintages, varieties or prescribed geographical indications;

in order to prove an offence under section 39J if the prosecution proves that, in either case, the defendant would have committed an offence against that section.

39ZAA Authority may require records

(1) The Authority may give a written notice to a person requiring the person, within a specified period and in a specified manner, to do either or both of the following:

(a) if the person's name and address appears on a wine label as the supplier (within the meaning of the Australia New Zealand Food Standards Code (as defined by the *Food Standards Australia New Zealand Act 1991*)) of the wine—provide specified information in relation to records that this Division requires to be kept;

(b) if the Authority has reason to believe that the person holds or controls a record that this Division requires to be kept—produce the record to the Authority.

(2) The period specified in the notice must not be less than 14 days from the day on which it is served.

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(3) The notice must set out the effects of section 39ZAB.

39ZAB Failure to comply with section 39ZAA notice

(1) A person commits an offence if:
  (a) the person is given a notice under section 39ZAA; and
  (b) the person refuses or fails to comply with the notice.

Penalty: 2 years imprisonment.

(2) Subsection (1) does not apply if complying with the notice would tend to incriminate the person.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2). (See subsection 13.3(3) of the *Criminal Code*.)

39ZAC Authority may retain records

If a record is produced to the Authority under section 39ZAA:
  (a) the Authority may keep it for 60 days, or, if a prosecution for a label offence of whose commission the record may be evidence is instituted within that period, until the completion of the proceedings for the offence and of any appeal from the decision in relation to the proceedings; and
  (b) the Authority may inspect the record and may make and retain copies of all or part of it; and
  (c) while the Authority has possession of the record, the Authority must:
    (i) allow the record to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the Authority's possession; and
    (ii) allow such a person to make a copy of the record.

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Division 3—Inspection

39ZA Appointment of inspectors

(1) The principal employee may, on behalf of the Authority:
  (a) appoint an eligible person to be an inspector; or
  (b) appoint a class of eligible persons to be inspectors.

(2) The appointment of an inspector ceases if he or she ceases to be an eligible person.

(3) For the purposes of this section, the following are eligible persons:
  (a) employees of the Authority;
  (b) officers and employees of the Commonwealth or of authorities of the Commonwealth;
  (c) officers and employees of a State or internal Territory whom a Minister of the Crown of the State, or Minister of the Territory, has agreed may be appointed as inspectors;
  (d) officers and employees of a local government body whom the body has agreed may be appointed as inspectors.

39ZB Identity cards

(1) The principal employee may cause an identity card to be issued to an inspector.

(2) An identity card must:
  (a) contain a recent photograph of the inspector to whom it is issued; and
  (b) be in a form approved by the Authority.

(3) An inspector whose appointment ceases must, as soon as practicable, return his or her identity card to the Authority.

Penalty: 1 penalty unit.

(4) An offence under subsection (3) is an offence of strict liability.

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Note: For strict liability, see section 6.1 of the *Criminal Code*.

39ZC Monitoring powers of inspectors—exercised with consent

For the purpose of finding out whether label laws are being complied with, an inspector may, with the consent of, and after producing the inspector's identity card for inspection by, the occupier of wine premises, enter, and exercise inspection powers on, the premises.

Note: An inspector may also exercise powers under this section for the purposes of Parts VIB and VII (see sections 40ZF and 44).

39ZD Monitoring warrants

(1) An inspector may apply to a magistrate for a warrant under this section in relation to particular wine premises.

Note 1: An inspector may apply for a warrant under this section by telephone or fax under section 39ZI.

Note 2: An inspector may also apply for a warrant under this section for the purposes of Parts VIB and VII (see sections 40ZF and 44).

(2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that it is reasonably necessary that the inspector should have access to the premises for the purpose of finding out whether label laws are being complied with.

(3) The magistrate must not issue the warrant unless the inspector or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought.

(4) The warrant must:

(a) authorise an inspector (whether or not named in the warrant), with such assistance and by such force as is necessary and reasonable:

(i) to enter the premises; and

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(ii) to exercise inspection powers on the premises; and

(b) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and

(c) specify the day (not more than 6 months after the issue of the warrant) on which the warrant ceases to have effect; and

(d) state the purpose for which the warrant is issued.

39ZE Offence powers of inspectors—exercised with consent

(1) An inspector may enter wine premises if:

(a) the inspector has reasonable grounds for suspecting that there is on the premises a particular thing that may afford evidence of the commission of a label offence; and

(b) the inspector has produced his or her identity card for inspection by the occupier of the premises; and

(c) the occupier of the premises has consented to the entry.

Note: An inspector may also exercise powers under this section for the purposes of Parts VIB and VII (see sections 40ZF and 44).

Consent

(2) Before obtaining the consent of the occupier for the purposes of paragraph (1)(c), an inspector must inform that occupier that he or she may refuse consent.

(3) A consent has no effect unless the consent is voluntary.

Inspector's powers while on premises

(4) The inspector may do the following while on the premises:

(a) exercise inspection powers;

(b) secure a thing pending the obtaining of a warrant under section 39ZF to seize it if the inspector has reasonable grounds for suspecting that the thing may afford evidence of the commission of a label offence.

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Withdrawal of consent

(5) The inspector may exercise powers under paragraph (4)(b) even if the occupier's consent is withdrawn after being given. Otherwise, the inspector must leave the premises if the occupier's consent is withdrawn after being given.

39ZF Offence related warrants

(1) An inspector may apply to a magistrate for a warrant under this section in relation to particular wine premises.

Note 1: An inspector may apply for a warrant under this section by telephone or fax under section 39ZI.

Note 2: An inspector may also apply for a warrant under this section for the purposes of Parts VIB and VII (see sections 40ZF and 44).

(2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that there are reasonable grounds for suspecting that there is, or there may be within the next 72 hours, on the premises a particular thing that may afford evidence of the commission of a label offence.

(3) The magistrate must not issue the warrant unless the inspector or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought.

(4) The warrant must:

(a) state the name of the inspector; and

(b) authorise the inspector, with such assistance and by such force as is necessary and reasonable:

(i) to enter the place; and

(ii) to exercise inspection powers on the premises; and

(iii) to seize the thing that might afford evidence; and

(c) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and

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(d) specify the day (not more than 7 days after the issue of the warrant) on which the warrant ceases to have effect; and

(e) state the purpose for which the warrant is issued.

39ZG Discovery of evidence

(1) Where an inspector enters wine premises under a warrant under section 39ZF and finds the thing (in this section called the ***evidence***) that may afford evidence of the commission of a label offence and which the inspector entered to find:

(a) the inspector may seize the evidence; and

(b) the inspector may keep the evidence for 60 days, or, if a prosecution for a label offence in the commission of which the evidence may have been used or otherwise involved is instituted within that period, until the completion of the proceedings for the offence and of any appeal from the decision in relation to the proceedings; and

(c) if the evidence is a book, record or document—while the inspector has possession of the evidence, the inspector must:

(i) allow the evidence to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the inspector's possession; and

(ii) allow such a person to make a copy of the evidence.

(2) If, in the course of searching wine premises entered under section 39ZE or a warrant under section 39ZF, the inspector:

(a) finds a thing that the inspector believes, on reasonable grounds to be:

(i) a thing (other than the evidence) that will afford evidence of the commission of the label offence mentioned in subsection (1); or

(ii) a thing that will afford evidence of the commission of another label offence; and

(b) the inspector believes, on reasonable grounds, that it is necessary to seize the thing to prevent its concealment, loss or destruction;

subsection (1) applies to the thing as if it were the evidence.

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39ZH Power to require persons to answer questions and produce documents

(1) An inspector who is on wine premises that the inspector has entered under a warrant issued under section 39ZD or 39ZF may require any person on the premises to:

(a) answer any questions put by the inspector; and

(b) produce any examinable documents requested by the inspector.

Note: An inspector may also exercise powers under this section for the purposes of Parts VIB and VII (see sections 40ZF and 44).

(2) A person commits an offence if:

(a) the person is required to answer a question or produce an examinable document under subsection (1); and

(b) the person refuses or fails to comply with the requirement.

Penalty: 30 penalty units.

(3) Subsection (2) does not apply if the answer to the question, or the producing of the document, would tend to incriminate the person.

Note: The defendant bears an evidential burden in relation to the matter in subsection (3). (See subsection 13.3(3) of the *Criminal Code*.)

39ZI Search warrants by telephone and other electronic means

Application for warrant

(1) If, in an urgent case, an inspector considers it necessary to do so, the inspector may apply to a magistrate by telephone, fax or other electronic means for a warrant under section 39ZD or 39ZF in relation to particular wine premises.

Voice communication

(2) The magistrate may require communication by voice to the extent that it is practicable in the circumstances.

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Information

(3) Before applying for the warrant, the inspector must prepare an information of the kind mentioned in subsection 39ZD(2) or 39ZF(2) in relation to the wine premises that sets out the grounds on which the warrant is sought. If it is necessary to do so, the inspector may apply for the warrant before the information is sworn or affirmed.

Issue of warrant

(4) If the magistrate is satisfied:
   (a) after having considered the terms of the information; and
   (b) after having received such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought;

that there are reasonable grounds for issuing the warrant, the magistrate may complete and sign the same form of warrant that would be issued under section 39ZD or 39ZF (as the case requires).

Notification

(5) If the magistrate completes and signs the warrant, the magistrate must inform the applicant, by telephone, fax or other electronic means, of:
   (a) the terms of the warrant; and
   (b) the day on which and the time at which the warrant was signed; and
   (c) the day (not more than one week after the magistrate completes and signs the warrant) on which the warrant ceases to have effect.

Form of warrant

(6) The applicant must then complete a form of warrant in the same terms as the warrant completed and signed by the magistrate, stating on the form the name of the magistrate and the day on which and the time at which the warrant was signed.

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Completed form of warrant to be given to magistrate

(7) The applicant must also, not later than the day after the day the warrant is executed, or expires (if the warrant has not been executed first), send to the magistrate:
  (a) the form of warrant completed by the applicant; and
  (b) the information referred to in subsection (3), which must have been duly sworn or affirmed.

Attachment

(8) The magistrate is to attach to the documents provided under subsection (7) the warrant completed by the magistrate.

Authority of warrant

(9) A form of warrant duly completed under subsection (6) is authority for the same powers as are authorised by the warrant signed by the magistrate.

(10) If:
  (a) it is material, in any proceedings, for a court to be satisfied that an exercise of a power was authorised by this section; and
  (b) the warrant signed by the magistrate authorising the exercise of the power is not produced in evidence;

the court must assume, unless the contrary is proved, that the exercise of the power was not authorised by such a warrant.

39ZIA Offences relating to warrants by telephone and other electronic means

Offence for stating incorrect names in warrants by telephone and other electronic means

(1) A person commits an offence if:
  (a) the person states a name of a magistrate in a document; and

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(b) the document purports to be a form of warrant under section 39ZI; and
(c) the name is not the name of the magistrate who issued the warrant.

Penalty: Imprisonment for 2 years.

Offence for unauthorised form of warrant

(2) A person commits an offence if:
(a) the person states a matter in a form of warrant under section 39ZI; and
(b) the matter departs in a material particular from the form authorised by the magistrate.

Penalty: Imprisonment for 2 years.

Offence for execution etc. of unauthorised form of warrant

(3) A person commits an offence if:
(a) the person executes a document or presents a document to a person; and
(b) the document purports to be a form of warrant under section 39ZI; and
(c) the document:
(i) has not been approved by a magistrate under that section; or
(ii) departs in a material particular from the terms authorised by the magistrate under that section.

Penalty: Imprisonment for 2 years.

Offence for giving unexecuted form of warrant

(4) A person commits an offence if:
(a) the person gives a magistrate a form of warrant under section 39ZI; and

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(b) the document is not the form of warrant that the person executed.

Penalty: Imprisonment for 2 years.

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Division 4—Use of records and results of inspection

39ZJ Authority to assist enforcement of laws on description of wine

(1) For the purpose of achieving the object of this Part, the Authority may give information obtained under this Part, and other assistance, to:

(a) the Australian Competition and Consumer Commission; or

(b) a Department of, or an authority or other body established for a public purpose by, the Commonwealth, a State or a Territory with responsibilities relating to the labelling, description or quality of wine; or

(c) a person who is prosecuting (or proposing to prosecute), or taking (or proposing to take) other proceedings against, a person under section 39J or 39K.

(2) This section does not limit any powers and duties of the Authority.

39ZK Proceedings not to lie against Authority etc.

No proceedings lie against:

(a) the Authority; or

(b) a director of the Authority; or

(c) an employee of the Authority; or

(d) an inspector;

in relation to any loss incurred or damage suffered because of information or assistance given under section 39ZJ.

39ZL Authority may assist in relation to levy

(1) The purpose of this section is to:

(a) assist; and

(b) achieve administrative savings in connection with;

the calculation and collection of:

(ba) wine grapes levy; or

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(bb) wine export charge; or

(c) grapes research levy.

(2) The Authority may, with a person's consent, give to a relevant agency information that is:

(a) kept by, or held on behalf of, the person; and

(b) obtained by the Authority under this Part.

(3) A person is taken to have consented to giving information under subsection (2) if the occupier of the wine premises where the information is kept or held gave such consent.

(4) In this Act:

relevant agency means an Agency (within the meaning of the *Public Service Act 1999*) with responsibilities relating to the levy or charge.

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Part VIB—Protection of geographical indications and other terms

Division 1—Preliminary

40 Interpretation

In this Part:

Committee means the Geographical Indications Committee.

40A Object of Part

The object of this Part is to regulate the sale, export and import of wine:

(a) for the purpose of enabling Australia to fulfil its obligations under prescribed wine-trading agreements and other international agreements; and

(b) for certain other purposes for which the Parliament has power to make laws;

and this Part is to be interpreted and administered accordingly.

Note: The Federal Court may grant an injunction under section 44AB if a person has engaged, is engaging or proposes to engage in conduct that contravenes this Part.

40B Additional operation of Part

(1) Without prejudice to its effect apart from this subsection, this Part also has the effect that it would have if any reference to a person were a reference to a corporation.

(2) Without prejudice to its effect apart from this subsection, this Part also has the effect that it would have if any reference to trade or commerce were, by express provision, confined to trade or commerce:

(a) between Australia and places outside Australia; or

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(b) among the States; or
(c) within a Territory; or
(d) between a State and a Territory; or
(e) between 2 Territories.

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Division 2—Provisions relating to sale, export or import of wine

Subdivision A—Sale, export or import of wine with a false description and presentation

40C Offence—sale, export or import of wine with a false description and presentation

(1) A person commits an offence if:

(a) the person sells, exports or imports wine; and

(b) the wine is sold, exported or imported by the person:

(i) in trade or commerce; and

(ii) with a false description and presentation.

Penalty: Imprisonment for 2 years.

Note: A court may impose a maximum fine of 120 penalty units instead of, or in addition to, a term of imprisonment. A body corporate that is convicted of an offence may be fined up to 5 times that maximum fine. (See subsections 4B(2) and (3) of the *Crimes Act 1914*.)

(2) The description and presentation may be false even if it indicates the country, region or locality (as the case may be) in which the wine originated.

40D False descriptions and presentations

(1) This section has effect for the purposes of section 40C.

(2) Subject to sections 40DA and 40DB, the description and presentation of wine is false if:

(a) it includes the name of a country, or any other indication that the wine originated in a particular country, and the wine did not originate in that country; or

(b) it includes a registered geographical indication, and the wine did not originate in a country, region or locality in relation to which the geographical indication is registered; or

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(c) it includes a registered translation of a registered geographical indication, and the wine did not originate in a country, region or locality in relation to which the geographical indication is registered; or

(d) it includes a registered traditional expression, and:

(i) the wine is not a wine in relation to which the expression is registered; and

(ii) the wine is in a category of wine in relation to which the expression is registered; and

(iii) the expression is in a language in relation to which the expression is registered; or

(e) it is not in accordance with any provisions relating to the description and presentation of wine as are prescribed for the purposes of this paragraph.

(3) Subsection (2) does not limit what, apart from that subsection, is a false description and presentation of wine.

(4) For the purposes of paragraphs (2)(b), (c) and (d):

(a) a registered geographical indication; or

(b) a registered translation of such an indication; or

(c) a registered traditional expression;

is included in the description and presentation of wine even if the indication, translation or expression is accompanied by an expression such as "kind", "type", "style", "imitation", "method", or any similar expression.

40DA Circumstances in which description and presentation is not false—general

Inclusion of geographical indication, translation or traditional expression registered for more than one place

(1) If:

(a) the description and presentation of wine includes an indication or term that is a registered geographical indication, a registered translation of such an indication, or a registered

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traditional expression, in relation to a country, region or locality; and

(b) the wine originated in that country, region or locality; and

(c) the description and presentation indicates that the wine originated in that country, region or locality;

then the description and presentation is not false merely because the indication or term is also a registered geographical indication, a registered translation of such an indication, or a registered traditional expression, in relation to another country, region or locality.

Inclusion of common English word or term

(2) If:

(a) the description and presentation of wine includes a word or term that is a registered geographical indication, a registered translation of such an indication, or a registered traditional expression, in relation to a country, region or locality; and

(b) the word or term is a common English word or term; and

(c) the word or term is not used in such a way as to indicate that the wine originated in the country, region or locality in relation to which the geographical indication, translation or traditional expression is registered; and

(d) the description and presentation indicates the country, region or locality in which the wine originated; and

(e) the word or term is used in good faith;

then the description and presentation is not false merely because it includes the word or term.

Inclusion of name of individual or address of winery

(3) The description and presentation of wine is not false merely because it includes:

(a) the name of an individual who manufactured, sold, exported or imported the wine; or

(b) if a person who manufactured, sold, exported or imported the wine is, apart from this subsection, lawfully permitted to use

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the name of an individual who previously manufactured, sold, exported or imported the wine—the name of that individual; or

(c) the address of the winery at which the wine was manufactured.

40DB Circumstances in which description and presentation is not false—inclusion of registered traditional expressions

Inclusion of registered quality wine term

(1) If:

(a) the description and presentation of wine includes a registered quality wine term; and

(b) the wine originated in Australia; and

(c) the description and presentation indicates that the wine originated in Australia or in a region or locality in Australia; and

(d) the registered quality wine term is also a registered traditional expression; and

(e) the wine is in a category of wine in relation to which the expression is registered;

then the description and presentation is not false merely because it includes the registered quality wine term.

Wine originating in non-agreement country

(2) The description and presentation of wine that originates in a foreign country that is not an agreement country is not false merely because it includes a term that is a registered traditional expression if:

(a) the term is not used in such a way as to be likely to mislead as to the country, region or locality in which the wine originated; and

(b) the description and presentation indicates the country, region or locality in which the wine originated; and

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(c) the inclusion of the term in the description and presentation does not constitute unfair competition within the meaning of Article 10*bis* of the Paris Convention for the Protection of Industrial Property of 20 March 1883 as amended.

Note: The text of the Convention is set out in Australian Treaty Series 1972 No. 12 ([1972] ATS 12). In 2009, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

Inclusion of trade mark

(3) If:

(a) the description and presentation of wine includes a trade mark; and

(b) the trade mark contains or consists of a registered traditional expression; and

(c) before the protection date for the traditional expression:

(i) the trade mark had been entered in good faith in the Register of Trade Marks; or

(ii) the owner of the trade mark had acquired rights in the trade mark through use in good faith;

then the description and presentation is not false merely because it includes that trade mark.

Inclusion of business name

(4) If:

(a) the description and presentation of wine includes a business name; and

(b) the business name contains or consists of a registered traditional expression; and

(c) before the protection date for the traditional expression, the business name was registered in good faith under the law of a State or Territory or on the Business Names Register established and maintained under section 22 of the *Business Names Registration Act 2011*;

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then the description and presentation is not false merely because it includes that business name.

(5) Subsection (4) does not limit subsection 40DA(3).

*Definition of **protection date***

(6) In this Act, the ***protection date*** for a registered traditional expression is:

(a) if the traditional expression is registered in relation to an agreement country under paragraph 40ZD(2A)(a):

(i) unless subparagraph (ii) applies—the date on which the prescribed wine-trading agreement to which that country is a party was signed; or

(ii) if that agreement is modified after that date to include the traditional expression and paragraph (b) does not apply—the date on which the agreement is so modified; or

(b) if the traditional expression is registered in relation to a foreign country (whether or not an agreement country) under paragraph 40ZD(2A)(b)—the date on which the traditional expression is registered.

Subdivision B—Sale, export or import of wine with a misleading description and presentation

40E Sale, export or import of wine with a misleading description and presentation

(1) A person commits an offence if:

(a) the person sells, exports or imports wine; and

(b) the wine is sold, exported or imported by the person:

(i) in trade or commerce; and

(ii) with a misleading description and presentation.

Penalty: Imprisonment for 2 years.

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Note: A court may impose a maximum fine of 120 penalty units instead of, or in addition to, a term of imprisonment. A body corporate that is convicted of an offence may be fined up to 5 times that maximum fine. (See subsections 4B(2) and (3) of the *Crimes Act 1914*.)

(2) The description and presentation may be misleading even if it indicates the country, region or locality (as the case may be) in which the wine originated.

40F Misleading descriptions and presentations

(1) This section has effect for the purposes of section 40E.

Inclusion of geographical indication, translation or traditional expression

(2) Subject to sections 40FA and 40FB, the description and presentation of wine is misleading if:

(a) it includes a registered geographical indication, and the indication is used in such a way as to be likely to mislead as to the country, region or locality in which the wine originated; or

(b) it includes a registered translation of a registered geographical indication, and the translation is used in such a way as to be likely to mislead as to the country, region or locality in which the wine originated; or

(c) it includes a registered traditional expression, and:

(i) the wine is not a wine in relation to which the expression is registered; and

(ii) the wine is not in a category of wine in relation to which the expression is registered; and

(iii) the expression is in a language in relation to which the expression is registered; and

(iv) the expression is used in such a way as to be likely to mislead that the wine originated in a country, region or locality in relation to which the expression is registered or that the wine is in a category of wine in relation to which the expression is registered.

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(3) For the purposes of subsection (2):
   (a) a registered geographical indication; or
   (b) a registered translation of such an indication; or
   (c) a registered traditional expression;

   is included in the description and presentation of wine even if the indication, translation or expression is accompanied by an expression such as "kind", "type", "style", "imitation", "method", or any similar expression.

Inclusion of word resembling geographical indication, translation or traditional expression

(4) Subject to sections 40FA and 40FB, the description and presentation of wine is misleading if:
   (a) it includes an indication or term that so resembles a registered geographical indication as to be likely to mislead that the wine originated in a country, region or locality in relation to which the indication is registered; or
   (b) it includes a term that so resembles a registered translation of a registered geographical indication as to be likely to mislead that the wine originated in a country, region or locality in relation to which the indication is registered; or
   (c) both of the following apply:
      (i) it includes a term that so resembles a registered traditional expression as to be likely to mislead that the wine originated in a country, region or locality in relation to which the expression is registered or that the wine is in a category of wine in relation to which the expression is registered;
      (ii) the wine originated in a foreign country that is not an agreement country.

Inclusion of name of individual or address of winery

(5) The description and presentation of wine is misleading if:
   (a) it includes:

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(i) the name of an individual who manufactured, sold, exported or imported the wine; or

(ii) if a person who manufactured, sold, exported or imported the wine is, apart from this subsection, lawfully permitted to use the name of an individual who previously manufactured, sold, exported or imported the wine—the name of that individual; or

(iii) the name or address of the winery at which the wine was manufactured; and

(b) the name or address, as the case may be, is used in such a way in the description and presentation as to be likely to mislead as to the country, region or locality in which the wine originated.

Not in accordance with prescribed provisions

(6) The description and presentation of wine is misleading if it is not in accordance with any provisions relating to the description and presentation of wine as are prescribed for the purposes of this subsection.

Ordinary meaning of misleading not affected

(7) Subsections (2), (3), (4), (5) and (6) do not limit what, apart from those subsections, is a misleading description and presentation of wine.

40FA Circumstances in which description and presentation is not misleading—general

Inclusion of geographical indication, translation or traditional expression registered for more than one place

(1) If:

(a) the description and presentation of wine includes an indication or term that is a registered geographical indication, a registered translation of such an indication, or a registered

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traditional expression, in relation to a country, region or locality; and

(b) the wine originated in that country, region or locality; and

(c) the description and presentation indicates that the wine originated in that country, region or locality;

then the description and presentation is not misleading merely because the indication or term is, or resembles, a registered geographical indication, a registered translation of such an indication, or a registered traditional expression, in relation to another country, region or locality.

Inclusion of common English word or term

(2) If:

(a) the description and presentation of wine includes a word or term that is a registered geographical indication, a registered translation of such an indication, or a registered traditional expression, in relation to a country, region or locality; and

(b) the word or term is a common English word or term; and

(c) the word or term is not used in such a way as to indicate that the wine originated in the country, region or locality in relation to which the geographical indication, translation or traditional expression is registered; and

(d) the description and presentation indicates the country, region or locality in which the wine originated; and

(e) the word or term is used in good faith;

then the description and presentation is not misleading merely because it includes the word or term.

40FB Circumstances in which description and presentation is not misleading—inclusion of registered traditional expressions

Inclusion of registered quality wine term

(1) If:

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(a) the description and presentation of wine includes a registered quality wine term; and
(b) the wine originated in Australia; and
(c) the description and presentation indicates that the wine originated in Australia or in a region or locality in Australia; and
(d) the registered quality wine term is also a registered traditional expression; and
(e) the wine is in a category of wine in relation to which the expression is registered;

then the description and presentation is not misleading merely because it includes the registered quality wine term.

Inclusion of trade mark

(2) If:
(a) the description and presentation of wine includes a trade mark; and
(b) the trade mark contains or consists of a registered traditional expression; and
(c) before the protection date for the traditional expression:
(i) the trade mark had been entered in good faith in the Register of Trade Marks; or
(ii) the owner of the trade mark had acquired rights in the trade mark through use in good faith;

then the description and presentation is not misleading merely because it includes that trade mark.

Inclusion of business name

(3) If:
(a) the description and presentation of wine includes a business name; and
(b) the business name contains or consists of a registered traditional expression; and

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(c) the business name was registered in good faith under the law of a State or Territory or on the Business Names Register established and maintained under section 22 of the *Business Names Registration Act 2011* before the protection date for the traditional expression;

then the description and presentation is not misleading merely because it includes that business name.

(4) Subsection (3) does not limit subsection 40F(5).

Subdivision C—Other provisions relating to sale, export or import of wine

40G Sale, export or import of wine in contravention of registered conditions of use

(1) A person commits an offence if:

(a) the person sells, exports or imports wine; and

(b) the wine is sold, exported or imported by the person in trade or commerce with a description and presentation that:

(i) includes an indication or term that is a registered geographical indication, a registered translation of such an indication, a registered traditional expression, a registered quality wine term or a registered additional term; and

(ii) does not comply with any registered conditions of use applicable to that geographical indication, translation, traditional expression, quality wine term or additional term (as the case may be).

Penalty: Imprisonment for 1 year.

Note: A court may impose a maximum fine of 60 penalty units instead of, or in addition to, a term of imprisonment. A body corporate that is convicted of an offence may be fined up to 5 times that maximum fine. (See subsections 4B(2) and (3) of the *Crimes Act 1914*.)

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Indication or term registered for more than one place

(2) Subsection (1) does not apply if:

(a) the indication or term is registered in one or more Parts of the Register in relation to one or more countries, regions or localities; and

(b) the description and presentation complies with the registered conditions of use applicable to the indication or term as registered in one of those Parts for one of those countries, regions or localities; and

(c) the wine originated in that country, region or locality; and

(d) the description and presentation indicates that the wine originated in that country, region or locality.

Note: The defendant bears an evidential burden in relation to the matters in this subsection. (See subsection 13.3(3) of the *Criminal Code*.)

Indication or term is registered additional term for particular wine

(3) Subsection (1) also does not apply if:

(a) the indication or term is a registered additional term for a particular wine and is also either or both of the following:

(i) a registered additional term for another particular wine;

(ii) registered in one or more Parts of the Register in relation to one or more countries, regions or localities; and

(b) the description and presentation complies with the registered conditions of use that are applicable to the indication or term as registered:

(i) for one of those particular wines; or

(ii) in one of those Parts for one of those countries, regions or localities; and

(c) either:

(i) if subparagraph (b)(i) applies—the wine is the particular wine; or

(ii) if subparagraph (b)(ii) applies—the wine originated in that country, region or locality, and the description and

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presentation indicates that the wine originated in that country, region or locality.

Note: The defendant bears an evidential burden in relation to the matters in this subsection. (See subsection 13.3(3) of the *Criminal Code*.)

40J Exception for certain wines

(1) In this section:

small quantities, in relation to wines, means quantities declared by the regulations to be small quantities of wines for the purposes of this section.

the offence provisions means subsections 40C(1), 40E(1) and 40G(1).

(2) The offence provisions do not apply in relation to wines manufactured before the commencement of this Part.

(3) The offence provisions do not apply in relation to wines that are in transit through Australia.

(4) The offence provisions do not apply in relation to wines that:
  (a) originate in Australia or an agreement country; and
  (b) are consigned in small quantities between Australia and an agreement country under the conditions, and in accordance with the procedures, prescribed by the regulations.

(5) The regulations may exempt wines referred to in the regulations from the operation of any one or more of the offence provisions, either generally or for such periods, in such circumstances, and subject to such conditions, as are set out in the regulations.

40K Prosecution of offences

(1) To avoid doubt, it is declared that any of the following may institute a proceeding for an offence against section 40C, 40E or 40G:
  (a) the Authority;

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(b) a person engaged in the manufacture of wine or the growing of wine grapes in Australia or in a designated foreign country;

(c) an organisation established under the law of Australia or of a designated foreign country whose objects or purposes include any of the following:

(i) the promotion of the manufacture of wine, the growing of wine grapes or the marketing of wine;

(ii) the promotion or protection of the interests of persons engaged in the manufacture of wine, the growing of wine grapes or the marketing of wine;

(iii) the promotion or protection of the interests of consumers of wine.

(2) This section does not limit the operation of section 13 of the *Crimes Act 1914*.

(3) In this Act:

designated foreign country means a foreign country in relation to which a geographical indication, translation of such an indication, traditional expression, or additional term is registered.

40M Application of national food standards to wines imported from foreign countries

National food standard modified

(1) A national food standard that applies to wine has effect, in relation to wine that originates in any foreign country, as if any requirement in the standard to comply with particular oenological practices or processes, or compositional requirements, in relation to wine were replaced by a requirement to comply with the replacement practices, processes or requirements under either subsection (1A) or (1B).

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Practices, processes and requirements set out in wine-trading agreements

(1A) The replacement practices, processes or requirements under this subsection are:

(a) subject to paragraph (b), the oenological practices or processes, or compositional requirements, set out in a prescribed wine-trading agreement as in force or existing from time to time; or

(b) if, in accordance with such an agreement, Australia has been notified of the authorisation of modifications of the oenological practices or processes, or compositional requirements, set out in the agreement—the oenological practices or processes, or compositional requirements, as so modified.

Practices, processes and requirements prescribed by the regulations

(1B) The replacement practices, processes or requirements under this subsection are the oenological practices or processes, or compositional requirements, prescribed by the regulations in relation to wine originating in any foreign country.

(1C) Regulations made for the purposes of subsection (1B):

(a) must not prescribe oenological practices or processes, or compositional requirements, in relation to wine originating in any foreign country unless the oenological practices or processes, or compositional requirements, apply to wine under the laws and regulations of a foreign country; and

(b) may prescribe oenological practices or processes, or compositional requirements, by applying, adopting or incorporating (with or without modification) a written instrument or other document:

(i) as in force or existing at a particular time; or

(ii) as in force or existing from time to time.

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Minister may suspend operation of section

(2) The Minister may suspend the operation of this section in relation to wine of a particular kind or description if the Minister is satisfied that there are reasonable grounds for believing that continued compliance with an oenological practice or process, or a compositional requirement, that was used in the manufacture of the wine would endanger human health.

(3) A suspension under subsection (2):

(a) must be by written notice signed by the Minister and published in the *Gazette*; and

(b) takes effect on a day stated in the notice that is not earlier than the day following the date of publication; and

(c) remains in force, unless sooner revoked, for one year.

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Division 3—Establishment, function and powers of Geographical Indications Committee

40N Establishment of Committee

A committee to be known as the Geographical Indications Committee is established.

40P Function and powers of Committee

(1) The functions of the Committee are:

(a) to deal with applications for the determination of geographical indications for wine in relation to regions and localities in Australia (***Australian GIs***) in accordance with this Part; and

(b) to make determinations of Australian GIs in accordance with this Part (including determining any conditions of use applicable to such GIs); and

(c) to make determinations for the omission of Australian GIs in accordance with this Part; and

(d) any other functions conferred on the Committee under this Part or under the regulations.

(2) The Committee has power to do all things that are necessary or convenient to be done by, or in connection with, the performance of its functions.

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Division 4—Australian geographical indications

Subdivision A—What this Division is about

40PA What this Division is about

(1) This Division deals with the determining of geographical indications (***GIs***) in relation to a region or locality in Australia.

Note: Geographical indications, and translations of such indications, in relation to wine originating in a foreign country are not determined under this Division. They are determined by the Committee under regulations made for the purposes of Division 4B (unless they are in a prescribed wine-trading agreement).

(2) Subdivisions B and C deal with the powers of the Committee and applications for the determination of GIs. Subdivision D deals with objections to the determination of a GI on the basis of pre-existing trade mark rights. GIs are determined under Subdivision E.

(3) The regulations may modify the operation of this Division to remove any inconsistency with the operation of regulations made for the purposes of Division 4B.

Subdivision B—Powers of Committee to determine geographical indications

40Q Power of Committee to determine geographical indications

(1) The Committee may, either on its own initiative or on an application made to it in accordance with section 40R, determine a geographical indication in relation to a region or locality in Australia.

(2) A determination by the Committee is to be in writing signed by the Presiding Member of the Committee.

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40QA Committee must await decisions under Subdivision D

The Committee must not do a thing under Subdivision E in respect of a proposed GI unless the requirements of Subdivision D have been complied with.

Subdivision C—Applications for determinations of geographical indications

40R Applications for determinations

Any of the following may apply in writing to the Committee for the determination of a geographical indication in relation to a region or locality in Australia:

(a) a declared winemakers organisation;
(b) a declared wine grape growers organisation;
(c) an organisation representing winemakers in a State or Territory;
(d) an organisation representing growers of wine grapes in a State or Territory;
(e) a winemaker;
(f) a grower of wine grapes.

Subdivision D—Objections to determination of geographical indications based on pre-existing trade mark rights

40RA Notice to be given of proposed geographical indication

(1) The Presiding Member of the Committee must cause a notice under subsection (2) to be published if:
(a) an application under section 40R has been made for the determination of a geographical indication (the ***proposed GI***); or
(b) the Committee is considering determining a geographical indication (the ***proposed GI***) on its own initiative under section 40Q; or

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(c) after an application under section 40R has been made, the Committee is considering, under paragraph 40T(3)(b), determining a geographical indication (the ***proposed GI***) that is different from the GI proposed in the application.

(2) The notice must:

(a) set out the proposed GI; and

(b) invite persons to make written objections to the Registrar of Trade Marks in relation to the proposed GI on a ground set out in section 40RB; and

(c) invite those objections to be made within the period of not less than one month stated in the notice.

40RB Grounds of objection to the determination of a geographical indication

Registered owner of a registered trade mark

(1) The registered owner of a registered trade mark may object to the determination of a proposed GI on one of the following grounds:

(a) that the trade mark consists of a word, expression or other indication that is identical to the proposed GI;

(b) that:

(i) the trade mark consists of a word, expression or other indication; and

(ii) the proposed GI is likely to cause confusion with that word, expression or other indication;

(c) that:

(i) the trade mark contains a word, expression or other indication; and

(ii) the proposed GI is likely to cause confusion with that word, expression or other indication; and

(iii) the owner has trade mark rights in that word, expression or other indication.

(2) The owner may object on the ground specified in paragraph (1)(c) even if there are conditions or limitations entered on the Register

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of Trade Marks suggesting that the owner does not have trade mark rights to that word, expression or other indication.

Trade mark pending

(3) If a person has an application pending for the registration of a trade mark under the *Trade Marks Act 1995,* the person may object to the determination of a proposed GI on one of the following grounds:

(a) that:

(i) the application was made in good faith; and

(ii) the trade mark consists of a word, expression or other indication that is identical to the proposed GI; and

(iii) prima facie, the requirements under the *Trade Marks Act 1995* for accepting an application for registration of a trade mark would be satisfied in respect of the trade mark applied for;

(b) that:

(i) the application was made in good faith; and

(ii) the trade mark consists of a word, expression or other indication; and

(iii) the proposed GI is likely to cause confusion with that word, expression or other indication; and

(iv) prima facie, the requirements under the *Trade Marks Act 1995* for accepting an application for registration of a trade mark would be satisfied in respect of the trade mark applied for;

(c) that:

(i) the application was made in good faith; and

(ii) the trade mark contains a word, expression or other indication; and

(iii) the proposed GI is likely to cause confusion with that word, expression or other indication; and

(iv) prima facie, the requirements under the *Trade Marks Act 1995* for accepting an application for registration of

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a trade mark would be satisfied in respect of the trade mark applied for; and

(v) after registration, the applicant would have trade mark rights in the word, expression or other indication.

Trade mark not registered

(4) If a person claims to have trade mark rights in a trade mark that is not registered, the person may object to the determination of a proposed GI on one of the following grounds:

(a) that:

(i) the trade mark consists of a word, expression or other indication that is identical to the proposed GI; and

(ii) the person has trade mark rights in that word, expression or other indication; and

(iii) the rights were acquired through use in good faith;

(b) that:

(i) the trade mark consists of or contains a word, expression or other indication; and

(ii) the proposed GI is likely to cause confusion with that word, expression or other indication; and

(iii) the person has trade mark rights in that word, expression or other indication; and

(iv) the rights were acquired through use in good faith.

40RC Consideration of objections

Notice of objection to be given to Committee

(1) If:

(a) the Registrar of Trade Marks receives an objection in relation to the proposed GI on a ground set out in section 40RB; and

(b) the objection is received within the period stated in the notice under section 40RA;

the Registrar of Trade Marks must in writing notify the Committee of the receipt and terms of the objection.

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Registrar of Trade Marks to make decision on whether ground made out or not

(2) If an objection is notified to the Committee under subsection (1), the Registrar of Trade Marks must decide in writing whether the ground of objection is or is not made out.

Registrar may make recommendation to Committee to determine a GI

(3) If:

(a) the Registrar of Trade Marks decides that the ground of objection is made out; and

(b) the Registrar of Trade Marks is satisfied that it is reasonable in the circumstances to recommend to the Committee that the proposed GI be determined despite the objection having been made out;

the Registrar of Trade Marks may make the recommendation. The recommendation must be in writing.

Note 1: For example, it may be reasonable for the Registrar of Trade Marks to make such a recommendation if the Registrar of Trade Marks is satisfied that the proposed GI was in use before the trade mark rights arose.

Note 2: If a recommendation is made under subsection (3), the Committee may determine the GI (see subsection 40SA(4)).

(4) In determining under paragraph (3)(b) whether it is reasonable in the circumstances to make the recommendation to the Committee, the Registrar of Trade Marks must have regard to Australia's international obligations.

Regulations

(5) Regulations may set out the procedure to be followed in making a decision under subsection (2) or (3). The procedures may include the charging of fees, the holding of hearings and the taking of evidence.

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40RD Notice to be given of decision

Notice to be given by Registrar of Trade Marks

(1) After the Registrar of Trade Marks has made a decision under section 40RC in relation to the proposed GI, the Registrar of Trade Marks must, in writing, inform the following of the outcome of the decision and of any recommendation that has been made under subsection 40RC(3):

(a) the person who proposed the GI, if there was an application under section 40R for the GI;

(b) the person who objected to the determination of the proposed GI;

(c) the Committee.

Notice to be given by Committee

(2) After receiving notice of a decision under subsection (1), the Presiding Member must cause a notice to be published:

(a) setting out the proposed GI; and

(b) stating that a decision of the Registrar of Trade Marks has been made in relation to the proposed GI; and

(c) setting out the terms of the decision and any recommendation made under subsection 40RC(3) in relation to the proposed GI.

(3) The notice under subsection (2) is to be published in the manner that the Committee thinks appropriate.

40RE Decision that ground of objection no longer exists

(1) If:

(a) a decision has been made that a ground of objection to a proposed GI has been made out; and

(b) a person applies in writing to the Registrar of Trade Marks for a decision that circumstances have changed since that decision was made such that the ground of objection no longer exists;

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the Registrar of Trade Marks may, in writing, make a decision that the ground of objection no longer exists.

Note: If the Registrar of Trade Marks makes a decision under this section, the Committee may determine the GI (see subsection 40SA(5)).

(2) Regulations may set out the procedure to be followed in making a decision under subsection (1). The procedures may include the charging of fees, the holding of hearings and the taking of evidence.

40RF Appeals

(1) An appeal lies to the Federal Court against a decision of the Registrar of Trade Marks, made under:
  (a) subsection 40RC(2) (a decision that a ground of objection is or is not made out); and
  (b) subsection 40RC(3) (a recommendation that a proposed GI be determined or a refusal to make such a recommendation); and
  (c) section 40RE (a decision that a ground of objection no longer exists or a refusal to make such a decision).

(2) The jurisdiction of the Federal Court to hear and determine appeals against decisions of the Registrar of Trade Marks under this Act is exclusive of the jurisdiction of any other court except the jurisdiction of the High Court under section 75 of the Constitution.

(3) On hearing an appeal against a decision of the Registrar of Trade Marks under this Act, the Federal Court may do any one or more of the following:
  (a) admit further evidence orally, or on affidavit or otherwise;
  (b) permit the examination and cross-examination of witnesses, including witnesses who gave evidence before the Registrar of Trade Marks;
  (c) order an issue of fact to be tried as it directs;
  (d) affirm, reverse or vary the Registrar of Trade Marks's decision;

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(e) give any judgment, or make any order, that, in all the circumstances, it thinks fit;

(f) order a party to pay costs to another party.

(4) The Registrar of Trade Marks may appear and be heard at the hearing of an appeal to the Federal Court against a decision of the Registrar of Trade Marks.

(5) Except with the leave of the Federal Court, an appeal does not lie to the Full Court of the Federal Court against a decision of a single judge of the Federal Court in the exercise of its jurisdiction to hear and determine appeals from decisions of the Registrar of Trade Marks.

(6) The regulations may make provision about the practice and procedure of the Federal Court in a proceeding under this section, including provision:

(a) prescribing the time for starting the action or proceeding or for doing any other act or thing; or

(b) for an extension of that time.

40RG Decisions made under this Division not to affect rights under Trade Marks Act

A decision made under this Division does not:

(a) create or affect a right under the *Trade Marks Act 1995* or at common law in respect of a trade mark; or

(b) in any way pre-empt or affect a decision of the Registrar of Trade Marks under the *Trade Marks Act 1995* in respect of a pending application for the registration of a trade mark.

Subdivision E—Determinations of geographical indications

40SA When may a determination be made under this Subdivision?

(1) If an objection was made to a proposed geographical indication (***GI***) under section 40RB, the Committee may only determine the GI in the circumstances set out in this section.

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Grounds of objection not made out

(2) The Committee may determine a GI that was the subject of a decision under subsection 40RC(2), if:

(a) all appeals against, or reviews of, the decision (if any) in relation to the GI have been finalised; and

(b) the decision standing after the appeals and reviews have been finalised is that a ground of objection has not been made out in relation to the GI.

If grounds for objection made out and person agrees to determination of GI

(3) The Committee may determine a GI that is the subject of a decision that a ground of objection has been made out, if the person who objected to the determination of the GI has agreed, by notice in writing given to the Committee, to the determination of the GI.

If grounds for objection made out and a recommendation is made under subsection 40RC(3)

(4) The Committee may determine a GI that is the subject of a decision that a ground of objection has been made out, if:

(a) a recommendation has been made to the Committee under subsection 40RC(3) that the GI should be determined despite the ground of objection having been made out; and

(b) all appeals against, or reviews of, the decision that the GI should be determined (if any) have been finalised; and

(c) the decision standing after the appeals and reviews have been finalised is that the GI should be determined.

If grounds for objection made out and a decision is made under section 40RE

(5) The Committee may determine a GI that is the subject of a decision that a ground of objection has been made out, if:

(a) a decision has been made under section 40RE that the ground of objection no longer exists; and

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(b) all appeals against, or reviews of, the decision that the ground no longer exists (if any) have been finalised; and
(c) the decision standing after the appeals and reviews have been finalised is that the ground no longer exists.

40S Consultation by the Committee

In determining a geographical indication, the Committee:
(a) must consult any declared winemakers organisation and any declared wine grape growers organisation; and
(b) may consult any other organisations or persons it thinks appropriate.

40T Making of determinations

(1) In determining a geographical indication, the Committee must:
(a) identify in the determination the boundaries of the area or areas in the region or locality to which the determination relates; and
(b) determine the indication to be used to indicate that area or those areas; and
(c) determine any conditions of use that are to be applicable to the geographical indication.

(2) If the regulations prescribe criteria for use by the Committee in determining a geographical indication, the Committee is to have regard to those criteria.

(3) When making a determination as a result of an application, the Committee may do either or both of the following:
(a) determine an area or areas having boundaries different from those stated in the application;
(b) determine an indication to be used to indicate the area or areas constituting the geographical indication that is different from an indication proposed in the application.

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(4) In determining a geographical indication, the Committee must not consider any submission to the extent that the submission asserts a trade mark right in respect of the proposed geographical indication.

40U Interim determination

(1) A determination by the Committee is to be an interim determination in the first instance.

(2) An interim determination does not have effect as a determination of a geographical indication.

40V Publication of notice of interim determination

(1) The Presiding Member of the Committee must cause a notice stating that the interim determination has been made and setting out the terms of the determination to be published in any manner that the Committee thinks appropriate.

(2) The notice must invite persons to make written submissions to the Committee in relation to the determination within a period of not less than one month that is stated in the notice.

40W Final determination

After considering any submissions made to it, the Committee may make a final determination.

40X Publication of notice of final determination

(1) The Presiding Member must cause a notice stating that a final determination has been made and setting out the terms of the determination to be published in any manner that the Committee thinks appropriate.

(2) The notice must include a statement to the effect that:

(a) subject to the *Administrative Appeals Tribunal Act 1975*, application may be made, by or on behalf of any person whose interests are affected by the determination, to the

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Administrative Appeals Tribunal for review of the determination; and

(b) unless subsection 28(4) of that Act applies, application may be made in accordance with section 28 of that Act by or on behalf of that person for a statement in writing setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the determination; and

(c) if a decision has been made under section 40RC before the final determination, no application to the Administrative Appeals Tribunal may be made in respect of that decision under section 40RC. An appeal lies to the Federal Court under section 40RF from a decision under section 40RC.

(3) Any failure to comply with subsection (2) in relation to a determination does not affect the validity of the determination.

40Y Review of final determination

(1) Application may be made to the Administrative Appeals Tribunal for review of a final determination.

Note: Under section 40RF, an appeal lies to the Federal Court from a decision under section 40RC.

(2) Section 29 of the *Administrative Appeals Tribunal Act 1975* has effect in relation to an application for review of a final determination as if the following subsections were inserted after subsection (1):

‘(1AA) Despite paragraph (1)(d) and subsection (2), an application to the Tribunal for review of a final determination under Part VIB of the *Wine Australia Act 2013* must be made within 28 days after notice of the determination is published in accordance with section 40X of that Act.

‘(1AB) Despite subsection (8), an application under subsection (7) in respect of a final determination under Part VIB of the *Wine Australia Act 2013* must be made before the time fixed by subsection (1A) ends.’.

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40Z Date of effect of final determination

(1) The Presiding Member must give a copy of the final determination to the Registrar so that particulars of the determination can be included in the Register:

(a) if an application is duly made to the Administrative Appeals Tribunal for review of the determination—as soon as practicable after the decision of the Tribunal on the review is given; or

(b) otherwise—as soon as practicable after the 28th day after notice of the determination is published in accordance with section 40X.

(2) When the Presiding Member gives a copy of a final determination to the Registrar, the Presiding Member must also give a copy to the Chair of the Authority.

(3) A final determination of the Committee takes effect on the day on which particulars of the determination are included in the Register.

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Division 4A—Omission of Australian registered geographical indications

Subdivision A—What this Division is about

40ZAA What this Division is about

(1) This Division deals with determining the omission from the Register of geographical indications (***Australian GIs***) determined under Division 4.

Note: Determinations for the omission of geographical indications, and translations of such indications, in relation to wine originating in a foreign country are not made under this Division. They are made by the Committee under regulations made for the purposes of Division 4B.

(2) The grounds for omission are that an Australian GI is not in use (see Subdivision B) or is no longer required (see Subdivision C).

Note: Subsection 40ZD(3) also deals with changes to the Register.

(3) The regulations may modify the operation of this Division to remove any inconsistency with the operation of regulations made for the purposes of Division 4B.

Subdivision B—Omission of Australian GIs for non-use

40ZAB Power of Committee to determine that an Australian GI should be omitted from the Register

The Committee may, either on its own initiative or on an application made in accordance with section 40ZAC, determine that an Australian GI is to be omitted from the Register on the ground that the GI is not in use.

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40ZAC Application

(1) A person (the ***applicant***) may apply in the prescribed form to the Committee to omit an Australian GI from the Register on the ground that the GI is not in use.

(2) The application must be accompanied by such fee (if any) charged by the Authority for the making of such an application.

(3) The Authority may waive the fee.

(4) If the application is not accompanied by the fee, and the fee is not waived by the Authority, the application is treated as having never been made.

40ZAD Further information concerning an application

(1) For the purposes of determining the application, the Committee may, by notice in writing, require the applicant to provide such further information as the Committee directs, within the period specified in the notice.

(2) If the applicant does not comply with this requirement, the application is taken to have been withdrawn.

(3) A notice must include a statement about the effect of the above.

40ZAE Notice by Committee

If the Committee:

(a) receives an application under section 40ZAC; or

(b) proposes on its own initiative that an Australian GI should be omitted from the Register on the ground that the GI is not in use;

the Presiding Member of the Committee must cause a notice to be published in the manner that the Committee thinks appropriate:

(c) setting out the Australian GI; and

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(d) stating that an application under section 40ZAC has been made, or that the Committee is proposing to make a determination to omit the GI on its own initiative; and

(e) inviting persons to make written submissions to the Committee in relation to the application or proposal within the period of not less than one month that is stated in the notice.

40ZAF Determination by Committee

(1) After considering any submissions made to it in response to a notice under section 40ZAE, the Committee must determine whether to omit the Australian GI on the ground that the GI is not in use.

(2) The Committee may, in writing, make a determination to omit the GI on that ground if the Committee is satisfied of the following matters:

(a) that the GI has been registered for a period of more than 5 years before the date of the notice under section 40ZAE;

(b) that the GI has not been used during the period of 3 years before the date of the notice under section 40ZAE (see subsection (3));

(c) that no special circumstances exist in relation to the region or locality indicated by the GI that would preclude the making of a determination to omit the GI from the Register (see subsection (4)).

Meaning of GI not been used

(3) For the purposes of paragraph (2)(b), an Australian GI has not been used if:

(a) there has not been a production of wine for commercial use originating in the region or locality indicated by the GI; and

(b) wine originating in the region or locality indicated by the GI has not been described and presented for sale within Australia, or for export, using that GI.

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Meaning of special circumstances

(4) For the purposes of paragraph (2)(c), special circumstances exist if:
   (a) the region or locality indicated by the GI has been affected by fire, drought or some other disaster; and
   (b) as a result of being so affected, there has not been a production of wine for commercial use originating in the region or locality indicated by the GI during the period of 3 years immediately before the date of the notice under section 40ZAE.

40ZAG Notice of determination

The Presiding Member of the Committee must cause:
   (a) a notice to be given of the Committee's determination to the applicant (if any); and
   (b) if the determination made is to omit the Australian GI from the Register—a notice setting out the terms of the determination to be published in the manner that the Committee thinks appropriate.

40ZAH AAT review of a determination

(1) Application may be made to the Administrative Appeals Tribunal for review of the determination made under section 40ZAF.

(2) Despite paragraph 29(1)(d) and subsection 29(2) of the *Administrative Appeals Tribunal Act 1975*, an application to the Tribunal for review of a determination under section 40ZAF must be made within 28 days after notice of the determination is published in accordance with section 40ZAG.

(3) Despite subsection 29(8) of the *Administrative Appeals Tribunal Act 1975*, an application under subsection 29(7) of that Act in respect of a determination under section 40ZAF must be made before the time fixed by subsection (2) of this section ends.

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40ZAI Date of effect of determination to omit GI

(1) If the determination made by the Committee under section 40ZAF is a determination to omit the Australian GI from the Register, the Presiding Member must give a copy of the determination to the Registrar so that particulars of the determination can be omitted from the Register:

(a) if an application is made to the Administrative Appeals Tribunal under section 40ZAH for review of the determination—as soon as practicable after the decision of the Tribunal on the review is given; or

(b) otherwise—as soon as practicable after the 28th day after notice of the determination is published in accordance with section 40ZAG.

(2) When the Presiding Member gives a copy of the determination to the Registrar, the Presiding Member must also give a copy to the Chair of the Authority.

(3) The determination of the Committee takes effect on the day on which particulars of the GI are omitted from the Register.

Subdivision C—Omission of Australian GIs because no longer required

40ZAJ Application

(1) A person (the ***applicant***) may apply in the prescribed form to the Committee to omit an Australian GI from the Register on the ground that the GI is no longer required.

(2) The application must be accompanied by a written statement from each of the following organisations supporting the application:

(a) a declared winemakers' organisation (if any);

(b) a declared wine grape growers' organisation (if any);

(c) the organisation or organisations representing winemakers in a State or Territory wholly or partly covered by the region or locality in Australia indicated by the GI;

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(d) the organisation or organisations representing growers of wine grapes in a State or Territory wholly or partly covered by the region or locality in Australia indicated by the GI.

(3) The application must also be accompanied by such fee (if any) charged by the Authority for the making of such an application.

(4) The Authority may waive the fee.

(5) If:

(a) the application is not accompanied by the fee, and the fee is not waived by the Authority; or

(b) the application is not accompanied by the statements referred to in subsection (2);

then the application is taken never to have been made.

40ZAK Further information concerning an application

(1) For the purposes of determining the application, the Committee may, by notice in writing, require the applicant to provide such further information as the Committee directs, within the period specified in the notice.

(2) If the applicant does not comply with this requirement, the application is taken to have been withdrawn.

(3) A notice must include a statement about the effect of subsection (2).

40ZAL Notice by Committee

After receiving an application under section 40ZAJ, the Presiding Member of the Committee must cause a notice to be published in the manner that the Committee thinks appropriate:

(a) stating that an application under section 40ZAJ has been made and setting out the Australian GI; and

(b) inviting:

(i) interested persons in relation to the GI (see section 40ZAM); and

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(ii) members of the organisations referred to in subsection 40ZAJ(2); and

(iii) the organisations referred to in subsection 40ZAJ(2);

to object to the omission of the GI from the Register by making written submissions to the Committee within the period of not less than one month that is stated in the notice.

40ZAM Meaning of interested person

For the purposes of subparagraph 40ZAL(b)(i), an interested person in relation to an Australian GI is a person who the Committee is satisfied is:

(a) a winemaker who makes wine for commercial purposes from grapes grown in the region or locality indicated by the GI; or

(b) a grower of grapes who grows wine grapes in the region or locality indicated by the GI; or

(c) a person who owns or leases a tract of land that is:

(i) 5 hectares or more in size and situated in the region or locality indicated by the GI; and

(ii) capable of being used to grow grapes for commercial wine production; or

(d) a person who:

(i) has a mortgage, lien or other commercial interest over, or in relation to, a vineyard or other property used in the production of wine that is situated in the region or locality indicated by the GI; and

(ii) has the agreement of the owner of the property to that person making a submission to the Committee under section 40ZAL.

40ZAN Determination by Committee

No submission made

(1) If no submissions have been made to the Committee in response to the notice under section 40ZAL, the Committee must make a

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determination in writing to omit the Australian GI from the Register on the grounds that the GI is no longer required.

Submission made

(2) If a submission has been made to the Committee, the Committee must make a determination in writing not to omit the GI from the Register.

40ZAO Notice of determination

The Presiding Member of the Committee must cause:

(a) notice to be given of the Committee's determination to the applicant; and

(b) a notice setting out the terms of the determination to be published in any manner that the Committee thinks appropriate.

40ZAP Date of effect of determination to omit Australian GI

(1) If the determination made by the Committee under section 40ZAN is a determination to omit the Australian GI from the Register, the Presiding Member must give a copy of the determination to the Registrar so that particulars of the determination can be omitted from the Register as soon as is practicable.

(2) When the Presiding Member gives a copy of the determination to the Registrar, the Presiding Member must also give a copy to the Chair of the Authority.

(3) The determination of the Committee takes effect on the day on which particulars of the GI are omitted from the Register.

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Division 4B—Foreign geographical indications and translations

40ZAQ Determination of foreign geographical indications and translations

(1) The regulations may make provision for and in relation to the determination of geographical indications, and translations of geographical indications, in relation to wine originating in a foreign country.

Role of Committee

(2) Without limiting subsection (1), the regulations may:

(a) provide for the Committee to deal with applications for the determination of geographical indications, and translations of such indications, in relation to wine originating in a foreign country or a region or locality in a foreign country; and

(b) provide for the Committee to make determinations of such indications and translations (including determining any conditions of use applicable to such indications and translations); and

(c) set out criteria for use by the Committee in making such determinations; and

(d) provide for review by the Administrative Appeals Tribunal of such determinations.

Role of Registrar of Trade Marks

(3) Without limiting subsection (1), the regulations may also:

(a) provide for objections to be made to the Registrar of Trade Marks in relation to the determination of proposed geographical indications, and translations of such indications, in relation to wine originating in a foreign country or a region or locality in a foreign country; and

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(b) set out the grounds on which such objections may be made; and

(c) set out the procedure to be followed in dealing with such objections (including the charging of fees, the holding of hearings and the taking of evidence); and

(d) provide for the Registrar of Trade Marks to make recommendations to the Committee in relation to the determination of the proposed indications and translations.

40ZAR Appeals against decisions of Registrar of Trade Marks

(1) An appeal lies to the Federal Court against such decisions of the Registrar of Trade Marks as are prescribed by the regulations (being decisions under regulations made for the purposes of subsection 40ZAQ(3)).

(2) The jurisdiction of the Federal Court to hear and determine appeals against prescribed decisions is exclusive of the jurisdiction of any other court except the jurisdiction of the High Court under section 75 of the Constitution.

(3) On hearing an appeal against a prescribed decision, the Federal Court may do any one or more of the following:

(a) admit further evidence orally, or on affidavit or otherwise;

(b) permit the examination and cross-examination of witnesses, including witnesses who gave evidence before the Registrar of Trade Marks;

(c) order an issue of fact to be tried as it directs;

(d) affirm, reverse or vary the prescribed decision;

(e) give any judgment, or make any order, that, in all the circumstances, it thinks fit;

(f) order a party to pay costs to another party.

(4) The Registrar of Trade Marks may appear and be heard at the hearing of an appeal to the Federal Court against a prescribed decision.

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(5) Except with the leave of the Federal Court, an appeal does not lie to the Full Court of the Federal Court against a decision of a single judge of the Federal Court in the exercise of its jurisdiction to hear and determine appeals against prescribed decisions.

(6) The regulations may make provision about the practice and procedure of the Federal Court in a proceeding under this section, including provision:

(a) prescribing the time for starting the action or proceeding or for doing any other act or thing; or

(b) for an extension of that time.

40ZAS Decisions not to affect rights under Trade Marks Act

A decision made under section 40ZAR, or under regulations made for the purposes of section 40ZAQ, does not:

(a) create or affect a right under the *Trade Marks Act 1995* or at common law in respect of a trade mark; or

(b) in any way pre-empt or affect a decision of the Registrar of Trade Marks under the *Trade Marks Act 1995* in respect of a pending application for the registration of a trade mark.

40ZAT Determinations for the omission from the Register of foreign geographical indications and translations

(1) The regulations may make provision for and in relation to the omission from the Register of registered geographical indications, and registered translations of such indications, in relation to a foreign country or a region or locality in a foreign country.

(2) Without limiting subsection (1), the regulations may:

(a) provide for the Committee to deal with applications for the omission from the Register of registered geographical indications, and registered translations of such indications, in relation to a foreign country or a region or locality in a foreign country; and

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(b) provide for the Committee to make determinations for the omission from the Register of such indications and translations; and

(c) set out the grounds on which such determinations may be made; and

(d) provide for review by the Administrative Appeals Tribunal of such determinations.

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Division 5—Register of Protected Geographical Indications and Other Terms

40ZA Registrar

(1) There is to be a Registrar of Protected Geographical Indications and Other Terms.

(2) The Registrar is to be an employee of the Authority.

(3) The Authority must ensure that, at all times when the person appointed as Registrar is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the Registrar, another employee is appointed to act as Registrar.

40ZB Functions of Registrar

The Registrar has the following functions:

(a) to keep the Register of Protected Geographical Indications and Other Terms;

(b) to include particulars in the Register in accordance with section 40ZD;

(c) to provide administrative assistance to the Committee;

(d) in accordance with the directions of the Committee, to prepare and cause to be published maps or other documents showing the boundaries of regions and localities in relation to which geographical indications have been determined by the Committee;

(e) in accordance with the directions of the Authority or the Committee, to notify authorities and organisations in foreign countries of the geographical indications, translations of such indications, traditional expressions and additional terms included in the Register.

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40ZC Register of Protected Geographical Indications and Other Terms

(1) The Registrar is to keep a register to be known as the Register of Protected Geographical Indications and Other Terms.

(2) The Register may be kept wholly or partly by means of a computer.

40ZD Contents of Register

Parts of the Register

(1) The Register is to be divided into 4 parts as follows:

(a) Part 1 is to include:

(i) geographical indications in relation to wines originating in Australia, and any conditions of use applicable to those indications; and

(ii) geographical indications in relation to wines originating in a foreign country, any translations of those indications, and any conditions of use applicable to those indications or translations;

(b) Part 2 is to include traditional expressions in relation to wines originating in a foreign country, and any conditions of use applicable to those expressions;

(c) Part 3 is to include quality wine terms in relation to wines originating in Australia, and any conditions of use applicable to those terms;

(d) Part 4 is to include other terms (not being geographical indications, translations of geographical indications, traditional expressions, or terms referred to in paragraph (c)), in relation to wines, and any conditions of use applicable to those terms.

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Particulars that must be included in Part 1 of the Register

(2) The Registrar must include in Part 1 of the Register (geographical indications), in accordance with the directions of the Authority, the following particulars:

(a) in relation to Australia:

(i) Australia; and

(ii) the name of each State and internal Territory; and

(iii) any geographical indication determined by the Committee under Division 4 to be a geographical indication in relation to wines originating in Australia; and

(iv) any region or locality in relation to which such a geographical indication is determined; and

(v) any conditions of use applicable to such a geographical indication;

(b) in relation to an agreement country:

(i) each geographical indication that, under a prescribed wine-trading agreement to which that country is a party, is a geographical indication in relation to wines originating in that country; and

(ii) any translation, recognised by that wine-trading agreement, of each such geographical indication; and

(iii) any region or locality in relation to which each such geographical indication is to be registered; and

(iv) any conditions of use applicable to a geographical indication referred to in subparagraph (i) or a translation referred to in subparagraph (ii);

(c) in relation to a foreign country (whether or not an agreement country):

(i) any geographical indication determined by the Committee, under regulations made for the purposes of Division 4B, to be a geographical indication in relation to wines originating in that country; and

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(ii) any translation determined by the Committee, under regulations made for the purposes of Division 4B, to be a translation of such a geographical indication; and

(iii) any region or locality in relation to which each such geographical indication is determined; and

(iv) any conditions of use applicable to a geographical indication referred to in subparagraph (i) or a translation referred to in subparagraph (ii).

Particulars that must be included in Part 2 of the Register

(2A) The Registrar must include in Part 2 of the Register (traditional expressions), in accordance with the directions of the Authority, the following particulars:

(a) in relation to an agreement country:

(i) each traditional expression that is listed in relation to wines originating in that country in a prescribed wine-trading agreement to which that country is a party; and

(ii) each wine originating in that country that is listed in that wine-trading agreement in relation to each such traditional expression; and

(iii) each category of wine that is listed in that wine-trading agreement in relation to each such traditional expression; and

(iv) each language that is listed in that wine-trading agreement in relation to each such traditional expression; and

(v) any conditions of use applicable to each such traditional expression;

(b) in relation to a foreign country (whether or not an agreement country):

(i) each traditional expression that is listed in the laws and regulations of that country for the purpose of the description and presentation of wines originating in that country, and that is determined by the Authority; and

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(ii) each wine originating in that country that is listed in those laws and regulations in relation to such a traditional expression; and

(iii) each category of wine that is listed in those laws and regulations in relation to such a traditional expression; and

(iv) each language that is listed in those laws and regulations in relation to such a traditional expression; and

(v) any conditions of use applicable to each such traditional expression.

Particulars that must be included in Part 3 of the Register

(2B) The Registrar must include in Part 3 of the Register (quality wine terms), in accordance with the directions of the Authority, the following particulars:

(a) each term (a ***quality wine term***) that, under a prescribed wine-trading agreement to which Australia is a party, is a quality wine term in relation to wines originating in Australia;

(b) any region or locality in relation to which each such term is to be registered;

(c) any conditions of use applicable to each such term.

Particulars that must be included in Part 4 of the Register

(2C) The Registrar must include in Part 4 of the Register (additional terms), in accordance with the directions of the Authority, the following particulars:

(a) in relation to Australia:

(i) each term (other than a geographical indication or a quality wine term) that, under a prescribed wine-trading agreement to which Australia is a party, is required to be protected for the purpose of the description and presentation of wine originating in Australia; and

(ii) any other term that the Authority has determined is required to be protected for the purpose of the

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description and presentation of wine originating in Australia; and

(iii) any region or locality in relation to which a term referred to in subparagraph (i) or (ii) is to be registered; and

(iv) any conditions of use applicable to a term referred to in subparagraph (i) or (ii);

(b) in relation to an agreement country:

(i) each term (other than a geographical indication, a translation of a geographical indication, or a traditional expression) that, under a prescribed wine-trading agreement to which that country is a party, is required to be protected for the purpose of the description and presentation of wine originating in that country; and

(ii) any region or locality in relation to which each such term is to be registered; and

(iii) any conditions of use applicable to each such term;

(c) in relation to a foreign country (whether or not an agreement country):

(i) each term (other than a geographical indication, a translation of a geographical indication, or a traditional expression) that is recognised in the laws and regulations of that country for the purpose of the description and presentation of wine originating in that country, and that is determined by the Authority; and

(ii) any region or locality in relation to which each such term is to be registered; and

(iii) any conditions of use applicable to each such term;

(d) any other term (not being a geographical indication, a translation of a geographical indication, a traditional expression or a quality wine term) that the Authority has determined is required to be protected in relation to particular wines, and any conditions of use applicable to those terms.

(3) If:

(a) it appears to the Authority that:

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(i) an entry in the Register is not, or has ceased to be, necessary; or

(ii) an entry in the Register is included in the wrong part of the Register;

and the inclusion of the entry in the Register, or in that part of the Register, did not result from a determination made by the Committee under Division 4 or under regulations made for the purposes of Division 4B; or

(b) it appears to the Authority that an entry should not have been included in the Register, or an entry in the Register is incorrect, because of a clerical or similar error;

the Authority may direct the Registrar to omit the entry from the Register, to omit the entry from that part of the Register and insert it in the correct part, or to correct the entry, as the case requires.

(4) In subsection (3):

entry includes a part of an entry.

(5) The Registrar must comply with a direction given under subsection (3).

40ZE Inspection of Register

(1) The Registrar must ensure that the Register is available for inspection at the office of the Registrar by any person during ordinary hours of business of that office.

(2) To the extent that the Register is kept by use of a computer, subsection (1) is complied with by giving members of the public access to a computer terminal that they can use to inspect the particulars constituting the Register, either on a screen or in the form of a computer print-out.

(3) The Registrar may supply a copy of the Register or part of the Register to a person on payment of the prescribed fee.

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Division 6—Inspection

40ZF Inspection powers

The provisions of Part VIA relating to inspections, including Division 4 of that Part, apply in relation to this Part in the same way as they apply in relation to Part VIA.

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Part VII—Miscellaneous

41A Remuneration and allowances of members of Geographical Indications Committee etc.

(1) This section applies to a person who is:

(b) a member of the Geographical Indications Committee established by section 40N; or

(c) a member of a committee constituted under section 11 other than a director of the Authority.

(2) Subject to this section, a person to whom this section applies shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, the person shall be paid such remuneration as is prescribed.

(3) Subject to this section, a person to whom this section applies shall be paid such allowances as are prescribed.

(4) Subsections (2) and (3) have effect subject to the *Remuneration Tribunal Act 1973*.

(5) Payments under this section shall be made out of the funds of the Authority.

(6) If:

(a) a person to whom this section applies is also a member of, or a candidate for election to, the Parliament of a State; and

(b) under the law of that State the person would not be eligible to remain, or to be elected as, a member of that Parliament if he or she were entitled to remuneration under this Act;

the person shall not be paid remuneration or allowances under this Act but shall be reimbursed such expenses as the person reasonably incurs because of the person's performing the functions of the office under this Act held by the person.

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(7) If a person to whom this section applies is also:

(a) a member of the Parliament of a State (other than a State referred to in subsection (6)); or

(b) in the service or employment of a State or an authority of a State, or holds or performs the duties of any office or position established by or under a law of a State, on a full-time basis;

it is a condition of the person's holding the office under this Act held by the person that the person pay to the State, within one month of receiving an amount of remuneration under this Act, an amount equal to that first-mentioned amount, and the person:

(c) shall not be paid allowances under this Act; and

(d) shall be reimbursed such expenses as the person reasonably incurs because of the person's performing the functions of the office under this Act held by the person.

(8) An amount payable to a State by a person under subsection (7) is a debt due to the State and the State may recover that amount by action against the person in a court of competent jurisdiction.

(9) In this section:

Parliament means:

(a) in relation to the Australian Capital Territory—the Legislative Assembly for the Territory; and

(b) in relation to the Northern Territory—the Legislative Assembly of the Territory.

State includes the Australian Capital Territory and the Northern Territory.

42 Delegation by Minister

The Minister may, in writing, delegate all or any of his or her powers and functions under this Act (other than section 31K) to:

(a) the Secretary; or

(b) an APS employee who holds or performs the duties of an SES Band 1 position, or an equivalent or higher position, in the Department.

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43 Delegation by Authority

(1) The Authority may, either generally or as otherwise provided by the instrument of delegation, by writing under its seal, delegate to a person or to a committee established under section 11 any of its powers under this Act, other than its powers under subsection 30(2) or this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Authority.

(3) A delegation under this section does not prevent the exercise of a power by the Authority.

44 Offences in relation to export of grape products

(1) A person commits an offence if:

(a) the person exports a grape product from Australia; and

(b) the export of the grape product contravenes the regulations.

Penalty: Imprisonment for 6 months.

Note: The Federal Court may grant an injunction under section 44AB if a person has engaged, is engaging or proposes to engage in conduct that contravenes this section.

(2) The provisions of Part VIA relating to inspections, including Division 4 of that Part, apply in relation to this section in the same way as they apply in relation to that Part.

44AA Time for bringing prosecutions

Despite section 15B of the *Crimes Act 1914*, a prosecution for an offence against section 44 of this Act that is committed after the commencement of this section may be brought at any time within 7 years after the commission of the offence.

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44AB Injunctions

(1) The Federal Court may grant an injunction if a person has engaged, is engaging or proposes to engage in any conduct that contravenes the following:

(a) Part VIA (label integrity program);

(b) Part VIB (protection of geographical indications and other terms);

(c) section 44 (offence in relation to export of grape products);

(d) regulations made for the purposes of the provisions mentioned in paragraphs (a) to (c).

(2) The injunction may:

(a) restrain the person from engaging in the conduct; and

(b) if the Court thinks it desirable to do so—require the person to do a particular act.

(3) An application for an injunction may be made by, or on behalf of, the following persons:

(a) the Authority;

(b) a declared wine makers organisation;

(c) a declared wine grape growers organisation;

(d) a person who is a manufacturer of wine, or a grower of wine grapes, in Australia or a designated foreign country;

(e) an organisation established under the law of Australia or of a designated foreign country whose objects or purposes include any of the following:

(i) the promotion of the manufacture of wine, the growing of wine grapes or the marketing of wine;

(ii) the promotion or protection of the interests of persons engaged in the manufacture of wine, the growing of wine grapes or the marketing of wine;

(iii) the promotion or protection of the interests of consumers of wine.

(4) The Court may grant an interim injunction pending a determination of an application for an injunction.

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(5) The Court may discharge or vary an injunction granted under this section.

(6) The power of the Court to grant an injunction restraining a person from engaging in conduct may be exercised:

(a) whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; and

(b) whether or not the person has previously engaged in conduct of that kind.

(7) The powers conferred on the Federal Court by this section are in addition to, and not in derogation of, any other powers of the Court.

44A Conduct by directors, employees or agents

(1) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:

(a) that the conduct was engaged in by a director, employee or agent of the body corporate within the scope of his or her actual or apparent authority; and

(b) that the director, employee or agent had the state of mind.

(2) Any conduct engaged in on behalf of a body corporate by a director, employee or agent of the body corporate within the scope of his or her actual or apparent authority is to be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the body corporate unless the body corporate establishes that it took reasonable precautions to avoid the conduct.

(3) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a natural person in relation to particular conduct, it is sufficient to show:

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(a) that the conduct was engaged in by an employee or agent of the person within the scope of his or her actual or apparent authority; and

(b) that the employee or agent had the state of mind.

(4) Any conduct engaged in on behalf of a natural person by an employee or agent of the person within the scope of his or her actual or apparent authority is to be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the first-mentioned person unless the first-mentioned person establishes that the first-mentioned person took reasonable precautions to avoid the conduct.

(5) Where:

(a) a natural person is convicted of an offence; and

(b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted;

the person is not liable to be punished by imprisonment for that offence.

(6) A reference in subsection (1) or (3) to the state of mind of a person includes a reference to:

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person's reasons for the intention, opinion, belief or purpose.

(7) A reference in this section to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth, of a State or of a Territory.

(8) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.

(9) A reference in this section to an offence against this Act includes a reference to:

(a) an offence created by the regulations; and

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(b) an offence against section 6 of the *Crimes Act 1914*, or section 11.1, 11.4 or 11.5 of the *Criminal Code*, that relates to this Act or the regulations.

45 Operation of certain laws not restricted

Nothing in this Act or the regulations restricts the operation of the *Customs Act 1901*, the *Commerce (Trade Descriptions) Act 1905* or the *Export Control Act 2020*, or of any regulations or other legislative instruments made under any one or more of those Acts.

45A Label Directory

(1) The regulations may make provision for and in relation to the Authority establishing, maintaining and making publicly available a database, to be known as the Label Directory.

Contents of Label Directory

(2) The regulations may provide for the Label Directory to include:
  (a) digital colour images of grape product labels; and
  (b) information relating to grape products or relating to exporters of grape products.

(3) The regulations may provide for personal information to be included in the Label Directory if the personal information:
  (a) is included in a digital colour image of a grape product label; or
  (b) relates to grape products or to exporters of grape products.

(4) However, the regulations must not provide for any other personal information to be included in the Label Directory.

(5) The regulations may provide for corrections to the contents of the Label Directory.

(6) Subsections (2), (3) and (5) do not limit subsection (1).

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Uses of Label Directory

(7) The Authority may use the contents of the Label Directory:
  (a) for the purposes of the Authority deciding whether it is satisfied that there has been a contravention of Part VIA (about the label integrity program); or
  (b) for the purposes of the Authority performing functions, or exercising powers, under this Act or the regulations.

(8) Subsection (7) does not limit the purposes for which the contents of the Label Directory may otherwise be used.

Label Directory not a legislative instrument

(9) The Label Directory is not a legislative instrument.

46 Regulations

(1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular:
  (a) making provision with respect to annual general meetings including, in particular, provisions in respect of:
    (i) the giving of notice of motions to be moved at such meetings; and
    (ii) the moving of motions at such meetings by the Authority; and
    (iii) the procedure at such meetings; and
    (iv) the appointment by persons entitled to attend such meetings of other persons to be their proxies at such meetings; and
    (iva) the method of determining the number of votes that an eligible producer (within the meaning of section 29U) may cast at such meetings; and
    (v) the means of determining whether or not motions voted upon at such meetings have been passed; and

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(vi) the confidentiality of voting at such meetings; and

(b) requiring the doing of acts or things necessary to be done for the purpose of giving effect to a prescribed wine-trading agreement; and

(c) prohibiting the export of a grape product from Australia except subject to and in accordance with prescribed conditions, including, in particular:

(i) conditions requiring an exporter to be the holder of a licence to export the grape product;

(ii) conditions requiring an exporter to obtain the approval of the Authority for particular exports of the grape product;

(iii) conditions requiring the purchaser of the grape product, or the person to whom the grape product is consigned as an agent or representative of the purchaser or exporter in the country to which the grape product is consigned, to be a person approved by the Authority; or

(iv) conditions relating to the price, or form of consignment, of the grape product; and

(d) making provision with respect to:

(i) the grant, suspension or cancellation by the Authority, or a person authorized by it, of licences to export a grape product from Australia; and

(ii) the issuing or revocation by the Authority, or by a person authorized by it, in respect of particular exports of a grape product, of certificates as to compliance with the conditions subject to which the grape product may be exported; and

(e) providing for the period for which a licence, or a licence included in a class of licences, granted under the regulations remains in force; and

(f) authorizing the Authority, or a person authorized by it:

(i) to determine prices or other matters for the purposes of the regulations; or

(ii) to give to the holder of a licence to export a grape product granted under the regulations directions, in

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writing, with respect to the quantities of the grape product that may be exported by the holder of the licence either generally or otherwise as provided in the regulations; and

(g) requiring persons to furnish returns and information necessary for the purposes of this Act; and

(h) providing for a penalty of:

(i) if the person is a natural person, a fine not exceeding 50 penalty units; or

(ii) if the person is a body corporate, a fine not exceeding 250 penalty units;

for offences against the regulations.

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Schedule—Administrative provisions relating to the Geographical Indications Committee

1 Interpretation

In this Schedule:

Committee means the Geographical Indications Committee.

member means the Presiding Member or a nominated member of the Committee.

nominated member means a member of the Committee referred to in paragraph 2(1)(b), (c) or (d).

Presiding Member means the Presiding Member of the Committee.

2 Membership of Committee

(1) The Committee is to consist of the following members:
  (a) a Presiding Member appointed by the Chair of the Authority in accordance with a resolution of the Authority;
  (b) one member appointed by the Chair of the Authority on the nomination of a declared winemakers organisation;
  (c) one member appointed by the Chair of the Authority on the nomination of a declared wine grape growers organisation;
  (d) any other member prescribed by the regulations for the purposes of this paragraph.

(2) The members of the Committee are to be appointed on a part-time basis.

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(3) The appointment of a member of the Committee is not ineffective only because of a defect or irregularity in, or in connection with, the member's nomination or appointment.

(4) The exercise of a power, or the performance of a function, by the Committee is not ineffective only because there is one vacancy in the membership of the Committee.

3 Acting Presiding Member

The Chair of the Authority may appoint a person to act as the Presiding Member:

(a) during a vacancy in the office of Presiding Member (whether or not an appointment has previously been made to the office); or

(b) during any period, or during all periods, when the Presiding Member is absent from Australia or is, for any other reason, unable to perform the functions of the Presiding Member.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

4 Alternate members of the Committee

(1) The Chair of the Authority may appoint a person who is not a member of the Committee to be the alternate of a particular nominated member.

(2) If a nominated member is absent from a meeting of the Committee, the member's alternate (if any) is entitled to attend the meeting and, when so attending, is taken to be a member of the Committee.

(3) If a person ceases to hold office as a nominated member:

(a) the person (if any) who was the person's alternate immediately before he or she ceased to hold office is entitled to attend meetings of the Committee while the office is vacant and, when so attending, is taken to be a member of the Committee; and

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(b) the person is taken to be the alternate of a person appointed to the vacant office until a new appointment of an alternate is made.

(4) A person may only be appointed as a nominated member's alternate if the person has been nominated in writing by the organisation by which the member was nominated for appointment.

(5) A person appointed as a member's alternate remains the member's alternate until the organisation that nominated the person gives the Chair of the Authority a written nomination of a different person for appointment as the member's alternate.

(6) A person may resign an appointment as alternate of a member of a Committee by giving a signed notice of resignation to the Chair of the Authority.

5 Term of office

A member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

6 Resignation

A member may resign his or her appointment by giving a signed notice of resignation to the Chair of the Authority.

7 Termination of appointment

(1) The Authority may terminate the appointment of a member of the Committee because of misbehaviour or physical or mental incapacity.

(2) If a member of the Committee:

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or

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(b) fails without reasonable excuse to comply with clause 9; or

(c) is absent, without leave of absence under clause 8, from 3 consecutive meetings of the Committee;

the Authority must terminate the appointment of the member.

8 Leave of absence

(1) The Chair of the Authority may grant the Presiding Member leave of absence from a meeting of a Committee.

(2) The Presiding Member may grant leave of absence to another member of a Committee from a meeting of a Committee.

9 Disclosure of interests by Committee members

(1) A member of the Committee who has a direct or indirect financial interest in a matter being considered or about to be considered by the Committee must, as soon as possible after the member has become aware of the relevant facts, disclose the nature of that interest at a meeting of the Committee.

(2) A disclosure under subclause (1) must be recorded in the minutes of a meeting of the Committee and the member must not, unless the Authority or the Committee otherwise determines:

(a) be present during any deliberation of the Committee regarding that matter; or

(b) take part in any decision of the Committee regarding that matter.

(3) For the purposes of the making of a determination by the Committee under subclause (2) in relation to a member who has made a disclosure under subclause (1), the member must not:

(a) be present during any deliberation of the Committee for the purpose of making a determination; or

(b) take part in the making of the determination.

(4) A member of the Committee who is a winemaker or a grower of wine grapes is not taken to have a financial interest in a matter

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being considered, or about to be considered, by the Committee solely because the member is a winemaker or grower of wine grapes, as the case may be.

10 Meetings

(1) Meetings of the Committee are to be held at such times and places as the Committee determines.

(2) A meeting of the Committee may be convened by the Presiding Member.

(3) Two members constitute a quorum at the meeting of the Committee.

Note: A different quorum may be prescribed by the regulations if the Committee has more than 3 members. (See subclause (10).)

(4) The presiding Member is to preside at all meetings of the Committee at which he or she is present.

(5) If the Presiding Member is not present at a meeting of the Committee, the members of the Committee who are present must elect one of them to preside at the meeting.

(6) Subject to subclause (7), a question arising at a meeting of the Committee is to be decided by a majority of the votes of the members of the Committee.

(7) If only 2 members are present at a meeting of the Committee and those members are unable to agree on a question, the question is to be deferred until a meeting at which 3 members are present.

Note: A different process for resolving questions may be prescribed by the regulations if the Committee has more than 3 members. (See subclause (10).)

(8) The Committee must keep minutes of its proceedings.

(9) The minutes must record each decision made by the Committee and the reasons for the decision.

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(10) If one or more members are prescribed by the regulations for the purposes of paragraph 2(1)(d):

(a) the number of members that constitutes a quorum at a meeting of the Committee is the number (being a number greater than 2) prescribed by the regulations for the purposes of this paragraph; and

(b) if members who are present at a meeting of the Committee are unable to agree on a question, the process that is to apply is the process prescribed by the regulations for the purposes of this paragraph.

11 Staff and consultants

(1) The Authority must make staff available to provide administrative assistance for the Committee.

(2) The Presiding Member may, on behalf of the Authority, engage persons with suitable qualifications and experience as consultants to the Committee.

(3) The terms and conditions of engagement of consultants are to be those determined by the Committee with the approval of the Authority.

12 Information for inclusion in Authority's annual report

As soon as practicable after the end of each financial year, the Committee must give to the Authority any information relating to the Committee's operations during that year that the Authority reasonably requires for the purpose of preparing a report under section 46 of the *Public Governance, Performance and Accountability Act 2013* in relation to the period that includes the year.

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation "(md)" added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation "(md not incorp)" is added to the details of the amendment included in the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Australian Wine and Brandy Corporation Act 1980	161, 1980	10 Dec 1980	s 1, 2 and 13(4): 10 Dec 1980 Remainder: 1 July 1981 (gaz 1981, No S123)	
Export Control (Miscellaneous Amendments) Act 1982	48, 1982	9 June 1982	1 Jan 1983 (s 2 and gaz 1982, No G48, p 2)	—
Statute Law (Miscellaneous Provisions) Act (No. 1) 1984	72, 1984	25 June 1984	s 5(1) and Sch: 23 July 1984 (s 2(24))	s 5(1)
Statute Law (Miscellaneous Provisions) Act (No. 2) 1984	165, 1984	25 Oct 1984	s 2(32), 6(1) and Sch 1: 25 Oct 1984 (s 2(2), (7), (32))	s 2(32) and 6(1)
Statute Law (Miscellaneous Provisions) Act (No. 1) 1985	65, 1985	5 June 1985	Sch 1: 3 July 1985 (s 2(1))	—
Australian Wine and Brandy Corporation Amendment Act 1986	60, 1986	24 June 1986	s 1, 2, 3(1), 5, 14, 19 and 30: 24 June 1986 Remainder: 1 July 1986	s 29 and 30
Primary Industries (Recovery of Levy Collection Expenses) Act 1988	51, 1988	15 June 1988	Sch: 15 June 1988 (s 2(1))	—
Australian Wine and Brandy Corporation Amendment Act 1989	144, 1989	23 Nov 1989	1 Jan 1990	s 6 and 10

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Primary Industries Levies and Charges Collection (Consequential Provisions) Act 1991	26, 1991	1 Mar 1991	1 July 1991 (s 2)	—
Australian Wine and Brandy Corporation Amendment Act 1992	137, 1992	11 Nov 1992	s 4: 9 Dec 1992 Remainder: 11 Nov 1992	—
Australian Wine and Brandy Corporation Amendment Act 1993	93, 1993	16 Dec 1993	16 Dec 1993	s 15(2)
Primary Industries and Energy Legislation Amendment Act (No. 2) 1994	129, 1994	21 Oct 1994	Sch: 1 Dec 1994 (s 2(3))	—
Competition Policy Reform Act 1995	88, 1995	20 July 1995	Sch 3: 6 Nov 1995 (s 2(2) and gaz 1995, No S423)	—
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 2 (item 19): 16 Dec 1993 (s 2(2)) Sch 4 (items 1, 48, 49): 25 Oct 1996 (s 2(1))	—
Wine Export Charge (Consequential Amendments) Act 1997	86, 1997	27 June 1997	27 June 1997 (s 2)	—
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 2 (items 554–567): 1 Jan 1998 (s 2(2))	—
Primary Industries and Energy Legislation Amendment Act (No. 1) 1998	102, 1998	30 July 1998	30 July 1998	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Primary Industries Levies and Charges (Consequential Amendments) Act 1999	32, 1999	14 May 1999	Sch 5 (items 1–17): 1 July 1999 (s 2(1)) Sch 5 (items 18–36): 1 Jan 2000 (s 2(2)(d))	Sch 5 (item 36)
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (item 277): 5 Dec 1999 (s 2(1), (2))	—
as amended by				
Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2000	121, 2000	5 Oct 2000	Sch 2 (item 8): 11 Nov 1999 (s 2(3))	—
Corporate Law Economic Reform Program Act 1999	156, 1999	24 Nov 1999	Sch 10 (items 63, 64): 13 Mar 2000 (s 2(2)(c) and gaz 2000, No S114)	—
Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 2) 1999	170, 1999	10 Dec 1999	Sch 7: 10 Dec 1999 (s 2(1))	Sch 7 (item 16)
Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2000	121, 2000	5 Oct 2000	Sch 2 (item 8): 11 Nov 1999 Remainder: 5 Dec 2000 (gaz 2000, No S612)	—
Agriculture, Fisheries and Forestry Legislation Amendment (Application of Criminal Code) Act 2001	115, 2001	18 Sept 2001	16 Oct 2001 (s 2)	s 4

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001	159, 2001	1 Oct 2001	29 Oct 2001 (s 2)	Sch 1 (item 97)
Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2003	38, 2003	2 May 2003	Sch 1: 3 May 2003 (s 2(1) item 2)	—
US Free Trade Agreement Implementation Act 2004	120, 2004	16 Aug 2004	Sch 3: 1 Jan 2005 (s 2(1) item 5)	Sch 3 (item 16)
Australian Wine and Brandy Corporation Amendment Act (No. 1) 2007	92, 2007	22 June 2007	22 June 2007 (s 2(1) item 2)	Sch 1 (item 8)
Statute Law Revision Act 2008	73, 2008	3 July 2008	Sch 4 (items 87, 88): 4 July 2008 (s 2(1) item 64)	—
Statute Stocktake (Regulatory and Other Laws) Act 2009	111, 2009	16 Nov 2009	Sch 1 (item 1): 17 Nov 2009 (s 2)	—
Australian Wine and Brandy Corporation Amendment Act 2010	98, 2010	6 July 2010	Sch 1 (items 1–69, 77–80) and Sch 2: 1 Sept 2010 (s 2(1) item 2, 3) Sch 3 (items 1–17, 19–21): 3 Aug 2010 (s 2(1) item 4) Sch 3 (item 18): 1 Sept 2010 (s 2(1) item 5)	Sch 1 (items 77–80), Sch 2 (items 36, 37) and Sch 3 (items 19–21)
Financial Framework Legislation Amendment Act 2010	148, 2010	17 Dec 2010	Sch 4 (items 1–11): 18 Dec 2010 (s 2(1) item 4)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 7 (item 148): 19 Apr 2011 (s 2(1) item 19)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 1191–1198) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 11, 12)	Sch 3 (items 10, 11)
Financial Framework Legislation Amendment Act (No. 1) 2011	89, 2011	4 Aug 2011	Sch 8: 5 Aug 2011 (s 2(1) item 6)	Sch 8 (item 3)
Business Names Registration (Transitional and Consequential Provisions) Act 2011	127, 2011	3 Nov 2011	Sch 2 (item 26): 20 Apr 2012 (s 2(1) item 4)	Act No 172, 2011 (Sch 1 (item 6))
Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2013	17, 2013	27 Mar 2013	Sch 1 and 2: 28 Mar 2013 (s 2(1) item 2)	Sch 1 (item 6)
Grape and Wine Legislation Amendment (Australian Grape and Wine Authority) Act 2013	136, 2013	13 Dec 2013	Sch 1 (items 1–13): 14 Dec 2013 (s 2(1) item 2) Sch 1 (items 16–185): 1 July 2014 (s 2(1) item 3)	—
Rural Research and Development Legislation Amendment Act 2013	146, 2013	13 Dec 2013	Sch 11 (items 1–12): 14 Dec 2013 (s 2(1) item 7) Sch 11 (items 13–21): 1 July 2014 (s 2(1) item 8)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 13 (items 12–24) and Sch 14: 1 July 2014 (s 2(1) items 9, 14)	Sch 14
as amended by				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2015	5, 2015	25 Mar 2015	Sch 3 (items 31–35): 25 Mar 2015 (s 2(1) item 10)	—
Tribunals Amalgamation Act 2015	60, 2015	26 May 2015	Sch 8 (items 10–13) and Sch 9: 1 July 2015 (s 2(1) items 19, 22)	Sch 9
Statute Law Revision Act (No. 2) 2015	145, 2015	12 Nov 2015	Sch 1 (item 4): 10 Dec 2015 (s 2(1) item 2)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Update (A.C.T. Self-Government (Consequential Provisions) Regulations) Act 2017	13, 2017	22 Feb 2017	Sch 1 (item 5): 22 Mar 2017 (s 2(1) item 2)	—
Australian Grape and Wine Authority Amendment (Wine Australia) Act 2017	122, 2017	6 Nov 2017	Sch 1 (items 1–19, 30–39): 7 Nov 2017 (s 2(1) item 1)	Sch 1 (items 30–39)
Wine Australia Amendment (Trade with United Kingdom) Act 2019	11, 2019	12 Mar 2019	13 Mar 2019 (s 2(1) item 1)	—
Export Control (Consequential Amendments and Transitional Provisions) Act 2020	13, 2020	6 Mar 2020	Sch 2 (item 24) and Sch 3 (items 1–91): 3 am (A.C.T.) 28 Mar 2021 (s 2(1) item 2)	Sch 3 (items 1–91)
Wine Australia Amendment (Label Directory) Act 2020	132, 2020	17 Dec 2020	1 July 2021 (s 2(1) item 1)	—

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Endnote 4—Amendment history

Provision affected	How affected
Title	am No 148, 2010; No 136, 2013; No 122, 2017
Part I	
s 1	am No 148, 2010; No 136, 2013; No 122, 2017
s 3	am No 93, 1993; No 98, 2010
	rs No 136, 2013
	am No 122, 2017; No 132, 2020
s 4	am No 60, 1986; No 26, 1991; No 93, 1993; No 152, 1997; Nos 32 and 170, 1999; No 120, 2004; Nos 98 and 148, 2010; No 17, 136 and 146, 2013; No 122, 2017; No 11, 2019; No 132, 2020
s 4A	ad No 93, 1993
s 4B	ad No 115, 2001
	rep No 136, 2013
s 5	rep No 60, 1986
s 5A	ad No 60, 1986
	am No 146, 2013
s 5B	ad No 93, 1993
	am No 146, 2013
s 5BA	ad No 136, 2013
	am No 146, 2013
s 5C	ad No 93, 1993
	am No 98, 2010
s 5D	ad No 93, 1993
	am No 170, 1999
	rs No 98, 2010
s 5E	ad No 136, 2013
Part II	
Part II heading	rs No 148, 2010
	am No 136, 2013
	rs No 122, 2017

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Endnote 4—Amendment history

Provision affected	How affected
Division 1	
Division 1 heading	ad No 136, 2013
s 6	am No 148, 2010
	rs No 136, 2013; No 122, 2017
s 7	am No 60, 1986
	rs No 136, 2013
	am No 122, 2017; No 132, 2020
s 7A	ad No 136, 2013
	am No 122, 2017
s 7B	ad No 122, 2017
s 8	am No 60, 1986; No 93, 1993; No 38, 2003; Nos 98 and 148, 2010; No 136, 2013; No 60, 2015; No 122, 2017
s 9	am No 60, 1986; No 144, 1989; No 115, 2001; No 73, 2008
	rep No 98, 2010
s 10	am No 136, 2013; No 122, 2017
s 10A	ad No 136, 2013
s 10B	ad No 136, 2013
s 10C	ad No 136, 2013
s 10D	ad No 136, 2013
s 11	am No 60, 1986; No 136, 2013
s 11A	ad No 136, 2013
Division 2	
Division 2	ad No 136, 2013
s 12	am No 152, 1997
	rs No 136, 2013; No 62, 2014
s 13	rs No 60, 1986
	am No 92, 2007; No 136, 2013
	rs No 136, 2013
s 14	am Nos 72 and 165, 1984
	rs No 60, 1986
	am No 159, 2001; No 92, 2007

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Provision affected	How affected
	rs No 136, 2013
	am No 146, 2013
s 15	rs No 60, 1986
	am No 93, 1993; No 92, 2007; No 136, 2013
	rs No 136, 2013
s 16	rs No 60, 1986; No 136, 2013
s 17	rs No 60, 1986; No 136, 2013
Division 3	
Division 3	ad No 136, 2013
s 18	rep No 60, 1986
	ad No 136, 2013
s 19	rep No 60, 1986
	ad No 136, 2013
	rs No 62, 2014
s 20	am No 60, 1986; No 152, 1997; No 156, 1999
	rs No 136, 2013
s 21	rs No 60, 1986
	am No 152, 1997; No 156, 1999
	rs No 136, 2013
s 22	am No 60, 1986
	rs No 136, 2013
s 23	rep No 60, 1986
	ad No 136, 2013
	am No 62, 2014
s 24	rep No 60, 1986
	ad No 136, 2013
Division 4	
Division 4	ad No 136, 2013
s 25	rep No 60, 1986
	ad No 136, 2013
s 26	rep No 60, 1986

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Endnote 4—Amendment history

Provision affected	How affected
	ad No 136, 2013
s 26A	ad No 136, 2013
	am No 62, 2014
s 26B	ad No 136, 2013
s 26C	ad No 136, 2013
s 26D	ad No 136, 2013
Part III heading	rep No 136, 2013
Part IV	
Part IV heading	rs No 122, 2017
Part IV	rep No 60, 1986
	ad No 136, 2013
s 27	rep No 60, 1986
Division 1	
s 27A	ad No 136, 2013
	am No 146, 2013; No 122, 2017
Division 2	
s 27B	ad No 136, 2013
	rs No 122, 2017
s 27C	ad No 136, 2013
	am No 146, 2013
s 27D	ad No 136, 2013
s 27E	ad No 136, 2013
s 27F	ad No 136, 2013
s 27G	ad No 136, 2013
	am No 146, 2013
s 27H	ad No 136, 2013
	am No 146, 2013
Division 3	
s 27J	ad No 136, 2013
	am No 146, 2013
s 27K	ad No 136, 2013

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Provision affected	How affected
s 27L	ad No 136, 2013
s 27M	ad No 136, 2013
Division 4	
s 27N	ad No 136, 2013
s 27P	ad No 136, 2013
s 27Q	ad No 136, 2013
s 27R	ad No 136, 2013
s 27S	ad No 136, 2013
s 27T	ad No 136, 2013
s 27U	ad No 136, 2013
s 27V	ad No 136, 2013
Division 5	
s 27W	ad No 136, 2013
s 27X	ad No 136, 2013
s 27Y	ad No 136, 2013
s 27Z	ad No 136, 2013
s 27ZA	ad No 136, 2013
s 27ZB	ad No 136, 2013
Division 6	
s 27ZC	ad No 136, 2013
s 27ZD	ad No 136, 2013
	rep No 136, 2013
s 27ZE	ad No 136, 2013
s 28	rep No 60, 1986
s 29	rep No 60, 1986
Part IVA heading	rs No 148, 2010
	rep No 136, 2013
Part IVA	ad No 60, 1986
	rep No 136, 2013
s 29AA	ad No 93, 1993
	am No 148, 2010

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 136, 2013
s 29A	ad No 60, 1986
	am No 148, 2010
	rep No 136, 2013
s 29B	ad No 60, 1986
	rep No 136, 2013
s 29C	ad No 60, 1986
	rep No 136, 2013
s 29D	ad No 60, 1986
	rep No 136, 2013
s 29E	ad No 60, 1986
	rep No 136, 2013
s 29F	ad No 60, 1986
	rep No 136, 2013
s 29G	ad No 60, 1986
	rep No 136, 2013
s 29H	ad No 60, 1986
	rep No 136, 2013
s 29J	ad No 60, 1986
	am No 46, 2011
	rep No 136, 2013
s 29K	ad No 60, 1986
	rep No 136, 2013
s 29L	ad No 60, 1986
	am No 43, 1996
	rep No 136, 2013
s 29M	ad No 60, 1986
	rep No 136, 2013
s 29N	ad No 60, 1986
	rep No 136, 2013
s 29P–29T	ad No 60, 1986

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Provision affected	How affected
	rep No 136, 2013
s 29TA	ad No 92, 2007
	am No 136, 2013
	rep No 136, 2013
s 29TB	ad No 136, 2013
	rep No 136, 2013
Part IVB	
Part IVB heading	am No 136, 2013
Part IVB	ad No 60, 1986
s 29U	ad No 60, 1986
	am No 129, 1994; No 86, 1997; No 32, 1999; No 121, 2000; No 136, 2013
s 29V	ad No 60, 1986
	rs No 129, 1994
	am No 86, 1997; No 32, 1999; No 136, 2013
s 29W	ad No 60, 1986
	am No 129, 1994
	rs No 136, 2013
s 29X	ad No 60, 1986
	am No 129, 1994; No 136, 2013
s 29Y	ad No 60, 1986
	am No 129, 1994; No 136, 2013
s 29Z	ad No 60, 1986
	am No 144, 1989; No 129, 1994; No 32, 1999
	rep No 121, 2000
s 29ZA	ad No 60, 1986
	am No 32, 1999; No 121, 2000
	rep No 136, 2013
Part V	
Part V heading	am No 136, 2013
s 30	am No 60, 1986; No 102, 1998; No 98, 2010; No 136, 2013

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Endnote 4—Amendment history

Provision affected	How affected
s 30A	ad No 136, 2013
Part VA	
Part VA heading	am No 136, 2013
Part VA	ad No 60, 1986
Division 1	
s 31	rep No 65, 1985
	ad No 60, 1986
	rs No 136, 2013
	am No 62, 2014
s 31A	ad No 60, 1986
	rs No 136, 2013
s 31B	ad No 60, 1986
	rep No 136, 2013
s 31C	ad No 60, 1986
	rep No 136, 2013
s 31D	ad No 60, 1986
	rep No 136, 2013
s 31E	ad No 60, 1986
	rep No 136, 2013
Division 2	
s 31F	ad No 60, 1986
	am No 136, 2013
s 31G	ad No 60, 1986
	am No 89, 2011
	rep No 136, 2013
s 31H	ad No 60, 1986
	rep No 136, 2013
s 31J	ad No 60, 1986
	rep No 136, 2013
Division 3	
s 31K	ad No 60, 1986

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Provision affected	How affected
	am No 93, 1993; No 152, 1997; No 136, 2013; No 62, 2014
Part VI	
s 31L	ad No 32, 1999
	rep No 136, 2013
s 32	rs No 60, 1986
	am No 144, 1989; No 26, 1991; No 86, 1997; No 32, 1999; No 136, 2013
s 32A	ad No 136, 2013
	am No 146, 2013
s 32B	ad No 136, 2013
s 33	rs No 60, 1986
	am No 144, 1989; No 26, 1991; No 86, 1997; No 32, 1999; No 136, 2013
s 34	rs No 60, 1986
	am No 136, 2013
s 34A	ad No 60, 1986
	am No 136, 2013
s 34B	ad No 60, 1986
	am No 136, 2013
s 35	am No 60, 1986; No 51, 1988; No 93, 1993; No 152, 1997; No 32, 1999; No 136 and 146, 2013; No 62, 2014
s 36	rep No 152, 1997
	ad No 136, 2013
s 37	rep No 60, 1986
s 38	am No 60, 1986; No 93, 1993; No 152, 1997; No 98, 2010; No 136, 2013
	rs No 62, 2014
s 38A	ad No 60, 1986
	rep No 152, 1997
	ad No 136, 2013
	am No 62, 2014
s 39	am No 136, 2013
Part VIA	
Part VIA	ad No 144, 1989

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Endnote 4—Amendment history

Provision affected	How affected
Division 1	
s 39A	ad No 144, 1989
	am No 93, 1993; No 98, 2010
s 39B	ad No 144, 1989
	rs No 98, 2010
s 39C	ad No 144, 1989
	am No 93, 1993; No 170, 1999
	rs No 98, 2010
s 39D	ad No 144, 1989
	rep No 98, 2010
s 39E	ad No 144, 1989
	rep No 98, 2010
s 39EA	ad No 93, 1993
	rep No 98, 2010
Division 2	
s 39F	ad No 144, 1989
	am No 137, 1992; No 93, 1993
	rs No 98, 2010
	am No 17, 2013
s 39G	ad No 144, 1989
	am No 137, 1992; No 170, 1999
	rs No 98, 2010
	am No 17, 2013
s 39H	ad No 144, 1989
	am No 137, 1992; No 170, 1999
	rs No 98, 2010
s 39J	ad No 144, 1989
	am No 137, 1992; No 170, 1999
	rs No 98, 2010
	am No 17, 2013
s 39K	ad No 144, 1989

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Provision affected	How affected
	am No 137, 1992; No 170, 1999
	rs No 98, 2010
s 39L	ad No 144, 1989
	rs No 98, 2010
s 39M	ad No 144, 1989
	am No 137, 1992; No 170, 1999
	rs No 98, 2010
s 39N	ad No 144, 1989
	am No 137, 1992; No 170, 1999
	rep No 98, 2010
s 39P	ad No 144, 1989
	am No 137, 1992; No 170, 1999
	rep No 98, 2010
s 39Q	ad No 144, 1989
	am No 137, 1992; No 170, 1999
	rep No 98, 2010
s 39R	ad No 144, 1989
	am No 137, 1992; No 170, 1999
	rep No 98, 2010
s 39S	ad No 144, 1989
	rs No 93, 1993
	rep No 98, 2010
s 39T	ad No 144, 1989
	rep No 98, 2010
s 39U	ad No 144, 1989
	rep No 98, 2010
s 39V	ad No 144, 1989
	rep No 98, 2010
s 39W	ad No 144, 1989
	am No 93, 1993; No 170, 1999
	rep No 98, 2010

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Endnote 4—Amendment history

Provision affected	How affected
s 39X	ad No 144, 1989
	rep No 98, 2010
	rep No 98, 2010
s 39Y	ad No 144, 1989
	am No 93, 1993
	rep No 98, 2010
s 39Z	ad No 144, 1989
	am No 93, 1993; No 43, 1996
	rep No 98, 2010
s 39ZAAA	ad No 137, 1992
	am No 170, 1999; No 115, 2001
	rep No 98, 2010
s 39ZAA	ad No 137, 1992
	am No 98, 2010; No 136, 2013
s 39ZAB	ad No 137, 1992
	am No 115, 2001
	rs No 98, 2010
s 39ZAC	ad No 137, 1992
	am No 136, 2013
Division 3	
s 39ZA	ad No 144, 1989
	am No 136, 2013
s 39ZB	ad No 144, 1989
	am No 115, 2001; No 98, 2010; No 136, 2013
s 39ZC	ad No 144, 1989
	am No 98, 2010
s 39ZD	ad No 144, 1989
	am No 98, 2010
s 39ZE	ad No 144, 1989
	rs No 98, 2010
s 39ZF	ad No 144, 1989

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Provision affected	How affected
	am No 137, 1992; No 98, 2010
s 39ZG	ad No 144, 1989
	am No 137, 1992
s 39ZH	ad No 144, 1989
	am No 115, 2001
	rs No 98, 2010
s 39ZI	ad No 98, 2010
s 39ZIA	ad No 98, 2010
Division 4	
s 39ZJ	ad No 144, 1989
	am No 93, 1993; No 88, 1995; No 98, 2010; No 136, 2013
s 39ZK	ad No 144, 1989
	am No 170, 1999; No 136, 2013
s 39ZL	ad No 144, 1989
	am No 86, 1997; Nos 32, 146 and 170, 1999; No 98, 2010; No 136, 2013
Part VIB	
Part VIB heading	rs No 98, 2010
Part VIB	ad No 93, 1993
Division 1	
s 40	am No 60, 1986
	rs No 93, 1993
	renum No 93, 1993
s 40A	ad No 93, 1993
	am No 98, 2010
s 40B	ad No 93, 1993
Division 2	
Subdivision A	
Subdivision A	ad No 98, 2010
s 40C	ad No 93, 1993
	am No 115, 2001
	rs No 98, 2010

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Endnote 4—Amendment history

Provision affected	How affected
s 40D	ad No 93, 1993
	am No 102, 1998
	rs No 98, 2010
s 40DA	ad No 98, 2010
s 40DB	ad No 98, 2010
	am No 127, 2011
Subdivision B	
Subdivision B	ad No 98, 2010
s 40E	ad No 93, 1993
	am No 115, 2001
	rs No 98, 2010
s 40F	ad No 93, 1993
	am No 102, 1998
	rs No 98, 2010
s 40FA	ad No 98, 2010
s 40FB	ad No 98, 2010
	am No 127, 2011
Subdivision C	
Subdivision C heading	ad No 98, 2010
s 40G	ad No 93, 1993
	rs No 98, 2010
s 40H	ad No 93, 1993
	am No 115, 2001
	rep No 98, 2010
s 40J	ad No 93, 1993
	am No 98, 2010
s 40K	ad No 93, 1993
	am No 98, 2010; No 136, 2013
s 40L	ad No 93, 1993
	rep No 98, 2010
s 40M	ad No 93, 1993

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Provision affected	How affected
	am No 98, 2010
Division 3	
s 40N	ad No 93, 1993
s 40P	ad No 93, 1993
	am No 120, 2004; No 98, 2010
Division 4	
Subdivision A	
Subdivision A	ad No 120, 2004
s 40PA	ad No 120, 2004
	am No 98, 2010
Subdivision B	
Subdivision B heading	ad No 120, 2004
s 40Q	ad No 93, 1993
s 40QA	ad No 120, 2004
Subdivision C	
Subdivision C heading	ad No 120, 2004
s 40R	ad No 93, 1993
Subdivision D	
Subdivision D	ad No 120, 2004
s 40RA	ad No 120, 2004
s 40RB	ad No 120, 2004
	am No 98, 2010
s 40RC	ad No 120, 2004
s 40RD	ad No 120, 2004
s 40RE	ad No 120, 2004
s 40RF	ad No 120, 2004
s 40RG	ad No 120, 2004
Subdivision E	
Subdivision E heading	ad No 120, 2004
s 40SA	ad No 120, 2004
s 40S	ad No 93, 1993

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Endnote 4—Amendment history

Provision affected	How affected
s 40T	ad No 93, 1993
	am No 120, 2004; No 98, 2010
s 40U	ad No 93, 1993
s 40V	ad No 93, 1993
s 40W	ad No 93, 1993
s 40X	ad No 93, 1993
	am No 120, 2004
s 40Y	ad No 93, 1993
	am No 120, 2004; No 148, 2010; No 136, 2013; No 60, 2015; No 122, 2017
s 40Z	ad No 93, 1993
	am No 136, 2013
Division 4A	
Division 4A heading	rs No 98, 2010
Division 4A	ad No 120, 2004
Subdivision A	
s 40ZAA	ad No 120, 2004
	am No 98, 2010
Subdivision B	
s 40ZAB	ad No 120, 2004
s 40ZAC	ad No 120, 2004
	am No 136, 2013
s 40ZAD	ad No 120, 2004
s 40ZAE	ad No 120, 2004
s 40ZAF	ad No 120, 2004
s 40ZAG	ad No 120, 2004
s 40ZAH	ad No 120, 2004
s 40ZAI	ad No 120, 2004
	am No 136, 2013
Subdivision C	
s 40ZAJ	ad No 120, 2004

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Provision affected	How affected
	am No 136, 2013
s 40ZAK	ad No 120, 2004
s 40ZAL	ad No 120, 2004
s 40ZAM	ad No 120, 2004
s 40ZAN	ad No 120, 2004
s 40ZAO	ad No 120, 2004
s 40ZAP	ad No 120, 2004
	am No 136, 2013
Division 4B	
Division 4B	ad No 98, 2010
s 40ZAQ	ad No 98, 2010
s 40ZAR	ad No 98, 2010
s 40ZAS	ad No 98, 2010
s 40ZAT	ad No 98, 2010
Division 5	
Division 5 heading	rs No 98, 2010
s 40ZA	ad No 93, 1993
	am No 98, 2010; No 136, 2013
s 40ZB	ad No 93, 1993
	am No 98, 2010; No 136, 2013
s 40ZC	ad No 93, 1993
	am No 98, 2010
s 40ZD	ad No 93, 1993
	am No 38, 2003; No 98, 2010; No 136, 2013
s 40ZE	ad No 93, 1993
Division 6	
Division 6	ad No 170, 1999
s 40ZF	ad No 170, 1999
	rs No 98, 2010
Part VII	
s 41A (prev s 40)	am No 93, 1993; No 43, 1996; No 136, 2013; No 13, 2017

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Endnote 4—Amendment history

Provision affected	How affected
s 41	am No 60, 1986
	rep No 152, 1997
s 42	am No 60, 1986; No 144, 1989; No 137, 1992; No 115, 2001
	rep No 98, 2010
	ad No 146, 2013
s 43	am No 60, 1986; No 102, 1998; No 136, 2013; No 146, 2013
s 44	am No 60, 1986; No 144, 1989; No 170, 1999; No 115, 2001; No 98, 2010
s 44AA	ad No 38, 2003
s 44AB	ad No 98, 2010
	am No 98, 2010; No 136, 2013
s 44A	ad No 144, 1989
	am No 115, 2001; No 5, 2015
s 45	rs No 48, 1982
	am No 13, 2020
s 45A	ad No 132, 2020
s 46	am No 60, 1986; No 144, 1989; No 121, 2000; No 38, 2003; No 98, 2010; No 136, 2013
Part VIII	rep No 136, 2013
s 47	rep No 136, 2013
s 48	rep No 93, 1993
s 49	rep No 136, 2013
s 50	am No 73, 2008; No 5, 2011
	rep No 136, 2013
s 51	rep No 136, 2013
s 52	rep No 111, 2009
s 53	rep No 136, 2013
s 54	rep No 136, 2013
s 55	rep No 136, 2013
Schedule	
Schedule	rs No 93, 1993

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Endnote 4—Amendment history

Provision affected	How affected
	am No 98, 2010; Nos 46 and 89, 2011; No 136, 2013; No 62, 2014; No 145, 2015

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