



# Australian Wine and Brandy Corporation Amendment Act 1992

No. 137 of 1992

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## An Act to amend the *Australian Wine and Brandy Corporation Act 1980*

[Assented to 11 November 1992]

The Parliament of Australia enacts:

### Short title etc.

1.(1) This Act may be cited as the *Australian Wine and Brandy Corporation Amendment Act 1992*.

5 (2) In this Act, “Principal Act” means the *Australian Wine and Brandy Corporation Act 1980*<sup>1</sup>.

### Commencement

2.(1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.

10 (2) Section 4 commences 28 days after this Act receives the Royal Assent.

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3. After section 39Z of the Principal Act, the following sections are inserted in Division 2 of Part VIA:

**Corporation may require records**

“39ZAA.(1) If the Corporation has reason to believe that a wine manufacturer or other person holds or controls a record required by this Division to be made and kept, the Corporation may, by notice in writing served on the person, require the person to produce the record to the Corporation, within the period and in the manner specified in the notice. 5

“(2) The period specified in the notice must not be less than 14 days from the day on which it is served. 10

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

**Failure to comply with section 39ZAA notice**

“39ZAB.(1) A person must not, without reasonable excuse, refuse or fail to comply with a notice under section 39ZAA. 15  
Penalty: \$15,000.

“(2) It is a reasonable excuse for a person to refuse or fail to comply with a notice if complying would tend to incriminate the person.

**Corporation may retain records** 20

“39ZAC. If a record is produced to the Corporation under section 39ZAA:

(a) the Corporation 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 25

(b) the Corporation may inspect the record and may make and retain copies of all or part of it; and

(c) while the Corporation has possession of the record, the Corporation must: 30

(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 Corporation’s possession; and

(ii) allow such a person to make a copy of the record.”. 35

4. Before section 39ZAA of the Principal Act, the following section is inserted:

**Offences in relation to record-keeping**

“39ZAAA. If a wine manufacturer who is required by this Division to make and keep a record of a matter: 40

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- (a) knowingly or recklessly fails to make or keep the record as required by this Division; or
- (b) knowingly or recklessly makes or keeps a record of the matter that is false, misleading or incomplete in a material particular;

5 the manufacturer is guilty of an offence.

Penalty: \$15,000.”.

**Discovery of evidence**

10 5. Section 39ZG of the Principal Act is amended by omitting paragraph (c) from subsection (1) and substituting the following paragraph:

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

- 15 (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.”.

**Corporation may require information**

20 6. Section 42 of the Principal Act is amended by omitting from subsection (1) “to matters about which records are required to be kept under Part VIA or other matters relating to the description of wine”, and substituting “to matters relating to the description of wine, other than matters about which records are required to be kept under Part VIA,”.

**Further amendments**

25 7. The Principal Act is further amended as set out in the Schedule.

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**SCHEDULE**

Section 7

**FURTHER AMENDMENTS**

**Sections 39F, 39G, 39H, 39J, 39K, 39M, 39N, 39P, 39Q and 39R:**

Omit "Penalty: \$15,000."

**Paragraph 39ZF(4)(d):**

Omit "one month", substitute "7 days".

**Paragraph 39ZG(2)(b):**

Omit the paragraph, substitute the following:

"(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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**NOTE**

1. No. 161, 1980, as amended. For previous amendments, see No. 48, 1982; Nos. 72 and 165, 1984; No. 65, 1985; No. 60, 1986; No. 51, 1988; No. 144, 1989; and No. 26, 1991.

[*Minister's second reading speech made in—  
House of Representatives on 19 August 1992  
Senate on 13 October 1992*]