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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

**WINE AUSTRALIA AMENDMENT (TRADE WITH UNITED KINGDOM)
BILL 2019**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Agriculture and Water Resources,
the Hon. David Littleproud MP)

WINE AUSTRALIA AMENDMENT (TRADE WITH UNITED KINGDOM) BILL 2019

GENERAL OUTLINE

On 29 March 2017, the United Kingdom (UK) informed the European Council of its intention to leave the European Union (EU), officially triggering Article 50 of the Treaty of Lisbon. As a result, it is anticipated the UK will no longer be a member of the EU after 29 March 2019.

On 25 November 2018, the European Council endorsed the draft *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community* (UK-EU Withdrawal Agreement). However, the UK-EU Withdrawal Agreement must now pass through the UK and EU Parliaments. The UK-EU Withdrawal Agreement sets out the terms of the UK's exit from the EU and includes a provision for a transition period (article 126). During the proposed transition period, the UK would remain subject to EU law and obligations stemming from EU-third country agreements, even though it would not be a member of the EU.

Trade in wine between Australia and the UK is currently facilitated by the *Agreement between Australia and the European Community on Trade in Wine* (EC-AU Wine Agreement). This Agreement will cease to apply to the UK once the UK leaves the EU, or at the end of a transition period, should one be agreed.

The EC-AU Wine Agreement is given effect in Australian law by the *Wine Australia Act 2013* ('the Act') and the Wine Australia Regulations. The Wine Australia Amendment (Trade with United Kingdom) Bill 2019 (the Bill) will ensure that the UK continues to be treated as an 'agreement country' for the purposes of the Act, in order to give domestic effect to the EC-AU Wine Agreement during a transition period, consistent with the terms of the UK-EU Withdrawal Agreement. It does this by amending the definition of 'EC country' in s 4 (1) of the Act to include the UK, during a transition period.

This amendment will enable the continued facilitation of trade in wine between Australia and the UK during any transition period.

Consultation on the Bill occurred with appropriate Commonwealth agencies, including the Attorney-General's Department and the Department of Foreign Affairs and Trade.

FINANCIAL IMPACT STATEMENT

The Bill will have no financial impact on the Australian Government Budget.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The full statement of compatibility with human rights is attached to this explanatory memorandum.

ACRONYMS, ABBREVIATIONS AND COMMONLY USED TERMS

the Act	<i>Wine Australia Act 2013</i>
the EC	European Community
EC-AU Wine Agreement	Agreement between Australia and the European Community on Trade in Wine, done at Brussels on 1 December 2008
the EU	the European Union
the Minister	the Minister administering the <i>Wine Australia Act 2013</i>
transition period	transition or implementation period for the UK-EU Withdrawal Agreement
the UK	the United Kingdom of Great Britain and Northern Ireland
Withdrawal Agreement	draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

NOTES ON AMENDMENTS

Preliminary

Clause 1 Short Title

Clause 1 provides for the short title of the Act to be the *Wine Australia Amendment (Trade with United Kingdom) Act 2019*.

Clause 2 Commencement

Clause 2 provides for the commencement of each provision in the Act, as set out in the table.

Item 1 in the table provides that the whole of the Act will commence on the day after the Act receives the Royal Assent.

Subclause 2(2) provides that any information in column 3 of the table is not part of the Act. Information may be inserted in column 3 of the table, or information in it may be edited, in any published version of the Act.

Clause 3 Schedules

Clause 3 provides that legislation that is specified in a Schedule to the Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule has effect according to its terms.

Schedule 1—Amendments

Overview

Schedule 1 to the Bill will amend the Act to ensure that the UK is treated as an ‘EC country’ for the purposes of the Act, in order to give effect to the EC-AU Wine Agreement in Australian law during any transition period, consistent with the terms of the UK-EU Withdrawal Agreement.

Wine Australia Act 2013

Item 1 Subsection 4(1) (at the end of the definition of *EC country*)

Item 1 amends the definition of an *EC country* in subsection 4(1) of the Act to include reference to the UK.

Subsection 4(1) of the Act currently defines *EC country* to mean a country that is a member of the European Community. Item 1 seeks to provide clarity that during a UK withdrawal transition period an *EC country* includes the UK.

Item 2 Subsection 4(1)

Item 2 amends subsection 4(1) of the Act to insert a definition of *UK withdrawal transition period*. That definition provides that a *UK withdrawal transition period* means the period when transitional arrangements agreed between the UK and the EU relating to trade are in force following the withdrawal of the UK from the EU.

It is necessary to insert a definition of *UK withdrawal transition period* in subsection 4(1) of the Act to provide clarity and assistance to the reader for the purposes of interpreting the amended definition of an *EC country* under subsection 4(1) of the Act (as amended by item 1 above), which provides that an *EC country* includes the UK during a *UK withdrawal transition period*.

Item 2 is consequential to the amendments made by item 1 above.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Wine Australia Amendment (Trade with United Kingdom) Bill 2019

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act.

Overview of the Bill

On 29 March 2017, the United Kingdom (UK) informed the European Council of its intention to leave the European Union (EU), officially triggering the procedure under Article 50 of the Treaty of Lisbon. As a result it is anticipated the UK will no longer be a member of the EU after 29 March 2019.

On 25 November 2018, the European Council endorsed the draft *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (Withdrawal Agreement)*. However, the UK-EU Withdrawal Agreement must now pass through the UK and EU Parliaments. The UK-EU Withdrawal Agreement sets out the terms of the UK's exit from the EU and includes a provision for a transition period. During the proposed transition period, the UK would remain subject to EU law and obligations stemming from EU-third country agreements, even though it would not be a member of the EU.

Trade in wine between Australia and the UK is currently facilitated by the *Agreement between Australia and the European Community on Trade in Wine* (EC-AU Wine Agreement). This Agreement will cease to apply to the UK once the UK leaves the EU, or at the end of a transition period, should one be agreed.

The EC-AU Wine Agreement is given effect in Australian law by the *Wine Australia Act 2013* and the Wine Australia Regulations. The Wine Australia Amendment (Trade with United Kingdom) Bill 2019 (the Bill) will ensure that the UK continues to be treated as an 'agreement country' for the purposes of the Act, in order to give domestic effect to the EC-AU Wine Agreement during a transition period, consistent with the terms of the UK-EU Withdrawal Agreement. It does this by amending the definition of 'EC country' in s 4 (1) of the Act to include the UK, during a transition period. This will enable the continued facilitation of trade in wine between Australia and the UK during any transition period.

Conclusion

The measures in the Bill are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act, as the Bill does not engage any human rights issues.

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the Hon. David Littleproud MP)**