EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 245

Subject: *Australian Wine and Brandy Corporation Act 1980*

Australian Wine and Brandy Corporation Amendment Regulations 2005 (No. 2)

The *Australian Wine and Brandy Corporation Act 1980* (the Act) establishes the Australian Wine and Brandy Corporation (AWBC) as a Statutory Authority to promote and control the export of grape products from Australia and encourage and promote the consumption and sale of grape products both in Australia and overseas.

Section 46 of the Act provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Australian Wine and Brandy Corporation Regulations 1981* (the Principal Regulations) prescribe the powers of the AWBC to control wine exports.

The Regulations amend the Principal Regulations. The purpose of the Regulations is to:

- clarify the circumstances in which the AWBC may approve the export of grape product that does not comply with the Australia New Zealand Food Standards Code; and
- provide a mechanism for interested parties to appeal any such decision**.**

The Board of the AWBC supports the amendments and will communicate the changes to wine exporters. The Australian wine industry through the Winemakers' Federation of Australia also supports the changes.

The AWBC, Food Standards Australia New Zealand and industry have been consulted on these amendments and they are satisfied that their requirements have been met.

The Act specifies no conditions that need to be met before this power to make the Regulations may be exercised.

Details of the Regulations are set out in the Attachment.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003.*

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

ATTACHMENT

DETAILS OF THE *AUSTRALIAN WINE AND BRANDY CORPORATION AMENDMENT REGULATIONS 2005 (No. 2)*

Regulation 1 provides for the name of the Regulations to be the *Australian Wine and Brandy Corporation Amendment Regulations 2005 (No. 2).*

Regulation 2 provides for the Regulations to commence on the day after they are registered.

Regulation 3 provides that Schedule 1 amends the *Australian Wine and Brandy Corporation Regulations 1981* (the Principal Regulations).

Schedule 1 Amendments

Item [1] Regulation 6A

This item substitutes existing regulation 6A to clarify the circumstances in which the AWBC has discretion to approve for export grape product that does not comply with the Australia New Zealand Food Standards Code (the Code). To approve the export of such product the AWBC would need to be satisfied that the grape product meets the requirements of the importing country, and that the export of the product will not compromise the reputation of Australia's wine industry. Decisions of the AWBC are to be in writing and state the particulars of the non-compliance.

Item [2] After paragraph 10(a)

This item inserts a new paragraph (aa) that introduces a right of appeal to the Administrative Appeals Tribunal against a decision by the AWBC to approve or not approve the export of grape product that does not comply with the Code.

The effect of this item is to provide an appeals mechanism for any decision made by the AWBC on the export of grape product that does not comply with the Code.