

## **EXPLANATORY STATEMENT**

Issued by Authority of the Assistant Minister for Agriculture and Water Resources,  
Parliamentary Secretary to the Deputy Prime Minister and  
Minister for Agriculture and Water Resources

*Wine Australia Legislation Amendment (Repeal and Consequential Amendments)  
Regulations 2018*

### **Legislative Authority**

Subsection 46(1) of the *Wine Australia Act 2013*, section 8 of the *Primary Industries (Customs) Charges Act 1999* and subsection 30(1) of the *Primary Industries Levies and Charges Collection Act 1991* provide that the Governor-General may make regulations prescribing matters required or permitted to be prescribed by the Acts, or necessary or convenient to be prescribed for carrying out or giving effect to those Acts.

### **Purpose**

The primary purpose of the *Wine Australia Legislation Amendment (Repeal and Consequential Amendments) Regulations 2018* (the Regulations) is to support the *Wine Australia Regulations 2018* (the Wine Australia Regulations) by repealing the *Australian Grape and Wine Authority Regulations 1981* (the old Regulations).

The Regulations also make consequential amendments to the *Primary Industries (Customs) Charges Regulations 2000* and the *Primary Industries Levies and Charges Collection Regulations 1991*. These amendments are a result of the Wine Australia Regulations (and repeal of the AGWA Regulations) and the *Wine Australia Act 2013*, as amended by the *Australian Grape and Wine Authority Amendment (Wine Australia) Act 2017*.

### **Background**

On 7 November 2017 the *Australian Grape and Wine Authority Act 2013* (now the *Wine Australia Act 2013*) was amended to align the legislated name of the Authority, that was the ‘Australian Grape and Wine Authority’, with the trading name of the Authority, ‘Wine Australia’.

The purpose of the Wine Australia Regulations is to remake and improve the old Regulations prior to their automatic repeal (sunsetting) on 1 April 2018. The *Legislation Act 2003* provides that all legislative instruments, other than exempt instruments, are automatically repealed according to the progressive timetable set out in section 50 of that Act. Legislative instruments generally cease to have effect after a specific date unless further legislative action is taken to extend their operation, such as remaking the instrument.

The Wine Australia Regulations prescribe a number of measures and obligations that are consistent with the old Regulations. The Wine Australia Regulations remake and improve the old Regulations, by repealing redundant provisions, simplifying language and restructuring provisions for ease of navigation and administration. The key changes are:

- removing spent provisions
- halving export certificate waiting periods for exporters

- enabling Wine Australia to refuse or suspend export licences to individuals with a history of non-compliance or that fail to pay the Wine Export Charge
- clarify criteria for determining Australian geographical indications.

These changes have not changed the substantive meaning or operation of the provisions from the old Regulations.

### **Consultation**

The Winemakers' Federation of Australia and Australian Vignerons were consulted during the comprehensive review of the old Regulations. These industry representative bodies agreed that the AGWA Regulations should be remade with minor amendments.

The Australian wine industry was also consulted through the Legislation Review Committee (LRC) of Wine Australia. The LRC, which includes representatives of the Winemakers' Federation of Australia and Australian Vignerons and other private members of the wine industry, recommended a number of amendments to the old Regulations.

Prior to the making of the Wine Australia Regulations and in accordance with the Office of Best Practice Regulation's Guidance Note on sunseting instruments, the Department of Agriculture and Water Resources assessed that the old Regulations were operating effectively and efficiently, and therefore a Regulation Impact Statement was not required (OBPR ID: 22343). This assessment was informed by the industry consultation process conducted during the sunseting review.

### **Details/ Operation**

Further details of the Regulations are set out in [Attachment A](#).

None of the Acts specify any conditions that need to be met before the power to make the Regulations may be exercised.

### **Other**

The Regulations are compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in [Attachment B](#).

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

**Details of the *Wine Australia Legislation Amendment (Repeal and Consequential Amendments) Regulations 2018***

This attachment sets out further details of the *Wine Australia Legislation Amendment (Repeal and Consequential Amendments) Regulations 2018* (the Regulations).

**Section 1 – Name**

This section provides that the name of the Regulations is the *Wine Australia Legislation Amendment (Repeal and Consequential Amendments) Regulations 2018*.

**Section 2 – Commencement**

This section provides for the Regulations to commence on 1 April 2018, to align with the commencement of the *Wine Australia Regulations 2018*, which replaces the *Australian Grape and Wine Authority Regulations 1981*.

**Section 3 – Authority**

This section provides that the Regulations are made under the following Acts:

- the *Primary Industries (Customs) Charges Act 1999* (under section 8);
- the *Primary Industries Levies and Charges Collection Act 1991* (under subsection 30(1));
- the *Wine Australia Act 2013* (under subsection 46(1)).

**Section 4 – Schedules**

This section provides that each instrument that is specified in a schedule to the Regulations is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Regulations has effect according to its terms.

**Schedule 1 – Repeals**

*Australian Grape and Wine Authority Regulations 1981*

**Item 1 – The whole of the instrument**

This item repeals the whole instrument of the *Australian Grape and Wine Authority Regulations 1981*.

**Schedule 2 – Amendments**

*Primary Industries (Customs) Charges Regulations 2000*

**Item 1 – Clause 1 of Schedule 13**

This item amends Clause 1 of Schedule 13 of the *Primary Industries (Customs) Charges Regulations 2000* by omitting the words “*Australian Grape and Wine Authority Act 2013*”, and substituting them with the words “*Wine Australia Act 2013*”.

Item 2 – Clause 1 of Schedule 13 (note)

This item amends the note to Clause 1 of Schedule 13 by omitting the words “regulation 12 of the *Australian Grape and Wine Authority Regulations 1981*”, and substituting them with the words “section 28 of the *Wine Australia Regulations 2018*”.

*Primary Industries Levies and Charges Collection Regulations 1991*

Item 3 – Clause 2 of Schedule 35 (definition of Authority)

This item amends the definition of Authority in Clause 2 of Schedule 35 of the *Primary Industries Levies and Charges Collection Regulations 1991* by omitting the words “the Australian Grape and Wine Authority”, and substituting them with the words “Wine Australia”.

Item 4 – Clause 2 of Schedule 35 (definition of licence)

This item amends the definition of licence in Clause 2 of Schedule 35 of the *Primary Industries Levies and Charges Collection Regulations 1991* by omitting the words “regulation 5 of the *Australian Grape and Wine Authority*”, and substituting them with the words “section 9 of the *Wine Australia Regulations 2018*”.

**Statement of Compatibility with Human Rights**

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

*Wine Australia Legislation Amendment (Repeals and Consequential Amendments)  
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This Legislative Instrument 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*.

**Overview of the Legislative Instrument**

The primary purpose of the *Wine Australia Legislation Amendment (Repeals and Consequential Amendments) Regulations 2018* is to support the *Wine Australia Regulations 2018* by repealing the *Australian Grape and Wine Authority Regulations 1981*, which are scheduled to sunset under section 50 of the *Legislation Act 2003*. This Legislative Instrument also makes consequential amendments to the *Primary Industries (Customs) Charges Regulations 2000* and the *Primary Industries Levies and Charges Collection Regulations 1991*.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**Senator the Hon. Anne Ruston**  
**Assistant Minister for Agriculture and Water Resources**  
**Parliamentary Secretary to the Deputy Prime Minister and Minister for Agriculture  
and Water Resources**