

Australian Wine and Brandy Corporation Act 1980

No. 161 of 1980

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SCHEDULE

Acts repealed

Australian Wine and Brandy Corporation Act 1980

No. 161 of 1980

An Act to establish an Australian Wine and Brandy Corporation, and for related purposes

[Assented to 10 December 1980]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Australian Wine and Brandy Corporation Act 1980*.

Commencement

2. (1) Sections 1 and 2 and sub-section 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.

Objects

3. (1) The objects of this Act are—

- (a) to promote and control the export of grape products from Australia;
- (b) to promote and control the sale and distribution, after export, of Australian grape products;
- (c) to promote trade and commerce in grape products among the States, between States and Territories and within the Territories; and
- (d) to improve the production of grape products, and encourage the consumption of grape products, in the Territories,

and this Act shall be construed and administered accordingly.

(2) The Corporation shall perform its functions or exercise its powers only for the purpose of achieving an object specified in sub-section (1).

Interpretation

4. (1) In this Act, unless the contrary intention appears—

“appoint” includes re-appoint;

“Chairman” means the Chairman of the Corporation;

“commencing date” means the date fixed under sub-section 2 (2);

“commercial producer” means a producer other than a co-operative producer;

“co-operative producer” means a producer that is, or is eligible to become, a member of the co-operatives organization;

“co-operatives organization” means the organization known as the Wine and Brandy Co-operative Producers Association of Australia Incorporated or, if another organization is for the time being prescribed for the purposes of this definition, that other organization;

“Corporation” means the Australian Wine and Brandy Corporation established by this Act;

“Deputy Chairman” means the Deputy Chairman of the Corporation;

“dried grapes” means grapes containing less than 60% of moisture;

“elect” includes re-elect;

“election” means an election referred to in sub-section 13 (3);

“Executive Committee” means the Executive Committee of the Corporation established by this Act;

“firm” means an unincorporated body or association of persons, and includes the personal representatives, if more than 1, of a deceased person;

“fresh grapes” means grapes containing not less than 60% of moisture;

“grape product” means—

(a) wine manufactured in Australia from prescribed goods;

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

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

“growers organization” means the organization known as the Winegrape Growers’ Council of Australia Incorporated or, if another organization is for the time being prescribed for the purposes of this definition, that other organization;

“member” means a member of the Corporation;

“prescribed goods” means—

(a) fresh grapes;

(b) dried grapes; and

(c) grape juice, whether single-strength or concentrated, being grapes or grape juice produced in Australia;

“producer” means—

(a) a person who is carrying on business in Australia, otherwise than as a member of a firm; or

(b) a firm that is carrying on business in Australia,

as a manufacturer of a grape product or grape products, but does not include a person to whom, or a firm to which, sub-section (3) applies;

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

(2) For the purposes of this Act, a quantity of fresh grapes that is the fresh grape equivalent of a quantity of prescribed goods other than fresh grapes used during a year shall be ascertained in the manner in which a quantity of fresh grapes that is equivalent to a quantity of prescribed goods of the same kind is required to be ascertained at the end of that year under the *Wine Grapes Levy Act 1979*.

(3) Where, during a year, the quantity (if any) of fresh grapes together with the fresh grape equivalent of the quantity (if any) of prescribed goods other than fresh grapes, used by—

(a) a person who was carrying on business in Australia, otherwise than as a member of a firm; or

(b) a firm that was carrying on business in Australia,

as a manufacturer of a grape product or grape products did not amount to 20 tonnes, that person or firm shall be taken, for the purposes of this Act, not to be a producer during the next following year.

Classes of producers

5. (1) For the purposes of this Act—

(a) where, during a year, the quantity (if any) of fresh grapes, together with the fresh grape equivalent of the quantity (if any) of prescribed goods other than fresh grapes, used by a commercial producer in the manufacture, in Australia, of a grape product or grape products amounted to not less than 20 tonnes but less than 500 tonnes, the producer shall be deemed to be included in Class 1 during the next following year;

(b) where, during a year, the quantity (if any) of fresh grapes together with the fresh grape equivalent of the quantity (if any) of prescribed goods other than fresh grapes, used by a commercial producer in the manufacture, in Australia, of a grape product or grape products amounted to not less than 500 tonnes but less than 10,000 tonnes, the producer shall be taken to be included in Class 2 during the next following year; and

(c) where, during a year, the quantity (if any) of fresh grapes, together with the fresh grape equivalent of the quantity (if any) of prescribed goods other than fresh grapes, used by a commercial producer in the manufacture, in Australia, of a grape product or grape products amounted to not less than 10,000 tonnes, the producer shall be taken to be included in Class 3 during the next following year.

(2) Nothing in sub-section (1) shall be taken to require a person or firm to be included in a class referred to in that sub-section at any time after that person or firm has ceased to be a commercial producer.

PART II—THE AUSTRALIAN WINE AND BRANDY CORPORATION

Establishment of Corporation

6. There is established by this Act a corporation by the name of the Australian Wine and Brandy Corporation.

Functions of Corporation

7. The functions of the Corporation are—

- (a) to promote and control the export of grape products from Australia;
- (b) to encourage and promote the consumption and sale of grape products both in Australia and overseas;
- (c) to improve the production of grape products in Australia;
- (d) to conduct, arrange for and assist in research into matters pertaining to the production, handling and transportation of grape products and of prescribed goods used, or suitable for use, in the production of grape products; and
- (e) such other functions in connection with grape products as are conferred on the Corporation by this Act or the regulations.

Powers of Corporation

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

(2) Without limiting the generality of sub-section (1), the powers of the Corporation referred to in that sub-section include power—

- (a) to make recommendations to the Minister in relation to the export from Australia of any grape product, including recommendations in respect of—
 - (i) the terms and conditions of the export of the grape product;
 - (ii) the persons who may be permitted to engage in the export of the grape product;
 - (iii) the packaging and labelling, for export, of the grape product; and
 - (iv) the quality, for export, of the grape product;
- (b) to engage, or make other arrangements with, persons, organizations or companies to perform work, or act as agent, for the Corporation, whether in Australia or overseas; and
- (c) with the approval, in writing, of the Minister and subject to such conditions (if any) as are specified in the instrument of approval, to

buy, sell and otherwise engage in trade in grape products and do all things necessary or convenient for engaging in that trade.

(3) The Corporation shall not engage in trade in competition with natural persons resident in, or corporations incorporated in, Australia otherwise than in a manner that accords with commercial practice.

Contracts for carriage of grape products

9. (1) The Corporation may, by notice published in the *Gazette*, approve a person as a carrier for the purposes of the carriage of a specified grape product to a specified place outside Australia.

(2) The Corporation may, by notice published in the *Gazette*, determine that a contract, or a contract included in a class of contracts, for the carriage of a specified grape product to a specified place outside Australia shall not be entered into except with the approval of the Corporation.

(3) An approval under sub-section (2) may be given subject to such conditions (if any) as the Corporation determines.

(4) While an approval under sub-section (1) is in force in relation to a place outside Australia, a person shall not enter into a contract with another person for the carriage by that other person of a grape product specified in the notice of approval to that place unless that other person is approved under that sub-section in relation to that place.

Penalty: \$2,000.

(5) A person other than the Corporation shall not enter into a contract with another person for the carriage by that other person of a grape product in relation to which a notice under sub-section (2) is in force to a place outside Australia specified in that notice except with the approval of the Corporation and in conformity with the conditions (if any) to which that approval is subject.

Penalty: \$2,000.

(6) Sub-section (4) does not apply to the Corporation in relation to any grape product when acting on its own behalf or as the agent of the owner of the grape product or of a person having the authority to export the grape product.

(7) A collector or officer for the purposes of the *Customs Act* 1901 may require a person who seeks to export from Australia to a place outside Australia in relation to which a notice under sub-section (2) is in force a grape product specified in the notice, on making entry of the grape product under that Act and before the entry has been passed, to satisfy him that—

- (a) the contract for the carriage of the grape product to that place was entered into with the approval of the Corporation and in conformity with the conditions (if any) to which that approval is subject; and
- (b) the carrier undertaking the carriage of the grape product to that place is approved by the Corporation under sub-section (1) as a carrier for the purposes of the carriage to that place of a grape product of a kind to which that contract relates,

and the collector or officer may refuse to pass the entry until that person has so satisfied him.

(8) A contract entered into for the carriage of a grape product to a place outside Australia is not unenforceable, voidable or void by reason only of the contract having been entered into in contravention of sub-section (4) or (5).

Power to enter into arrangements, &c.

10. Without limiting the generality of section 8, the Corporation may enter into arrangements or agreements with persons, authorities or organizations in Australia or overseas, or, with the consent of the Minister, with a State, for the purposes of the Corporation.

Committees

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

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

PART III—CONSTITUTION AND MEETINGS OF THE CORPORATION

Nature of Corporation

12. (1) The Corporation—

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

(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Corporation affixed to a document and shall presume that it was duly affixed.

Membership of Corporation

13. (1) The Corporation shall consist of 14 part-time members, namely—

- (a) a Chairman;
- (b) 1 member to represent commercial producers included in Class 1;
- (c) 2 members to represent commercial producers included in Class 2;
- (d) 3 members to represent commercial producers included in Class 3;
- (e) 2 members to represent co-operative producers;
- (f) 4 members to represent wine grape growers; and
- (g) 1 member to represent the Commonwealth.

(2) The members referred to in paragraphs (1)(a) and (g) shall be appointed by the Minister.

(3) Each member referred to in paragraph (1) (b), (c) or (d) shall be elected, at an election conducted in accordance with the regulations, by the commercial producers for the time being included in the class specified in that paragraph.

(4) The first elections to elect members to represent commercial producers shall be held as soon as practicable after the day on which this Act receives the Royal Assent and, for that purpose, the whole of this Act shall be deemed to have come into operation on that day but any person so elected shall not hold office as a member until the commencing date.

(5) Each member referred to in paragraph (1) (e) shall be appointed by the Minister on the nomination of the co-operatives organization.

(6) Each member referred to in paragraph (1) (f) shall be appointed by the Minister on the nomination of the growers organization.

(7) The performance of the functions, or the exercise of the powers, of the Corporation is not affected by reason of there being a vacancy or vacancies in the membership of the Corporation.

(8) The appointment of a member is not invalidated, and shall not be called in question, by reason of a deficiency or irregularity in, or in connection with, his appointment.

Term of office of members

14. (1) Subject to this Act, a member holds office for a period of 3 years.

(2) The member referred to in paragraph 13 (1) (g) holds office during the pleasure of the Minister.

(3) Whenever a vacancy occurs in the office of a member referred to in paragraph 13 (1) (a), (e) or (f) before the expiration of the period for which the member was entitled to hold that office, the Minister may, in accordance with section 13, appoint a person to that office for the remainder of that period.

(4) Whenever a vacancy occurs in the office of a member referred to in paragraph 13 (1) (b), (c) or (d) before the expiration of the period for which the member was entitled to hold that office, the Minister may, subject to the regulations, appoint a person to that office for the remainder of that period.

Deputy Chairman

15. (1) The Corporation shall appoint a member other than the Chairman to be the Deputy Chairman of the Corporation.

(2) Subject to this Act, the member holding office as Deputy Chairman ceases to hold that office immediately before the anniversary of the commencing date next succeeding his appointment.

(3) The Corporation may, at any time, remove the Deputy Chairman from office as Deputy Chairman.

(4) A member holding office as Deputy Chairman may, at any time, resign that office by writing signed by him and delivered to the Minister.

(5) A member holding office as Deputy Chairman ceases to hold that office if he ceases to be a member.

(6) Whenever a vacancy occurs in the office of Deputy Chairman before the expiration of the period of his appointment, the Corporation may, in accordance with this section, appoint another member to hold that office for the remainder of that period.

(7) While the office of Chairman is vacant or the Chairman is absent from duty or from Australia or is, for any other reason, unable to perform the functions of his office and the Deputy Chairman is available to perform the functions of the office of Chairman, the Deputy Chairman has and may exercise all the powers, and shall perform all the functions, of the Chairman under this Act.

(8) A reference in sub-section (7) to the powers and functions of the Chairman shall be read as including a reference to the powers and functions of the Chairman as Chairman of the Executive Committee.

Elections for office of Deputy Chairman, &c.

16. (1) Where—

(a) at a meeting of the Corporation at which 1 member is to be appointed—

(i) under sub-section 15 (1), as Deputy Chairman;

(ii) under sub-section 22 (6), to preside at the meeting; or

(iii) under section 25, as a member of the Executive Committee referred to in paragraph 25 (1) (b), (c) or (d),

there is more than 1 candidate for appointment; or

(b) at a meeting of the Corporation at which 2 members are to be appointed, under section 25, as the members of the Executive Committee referred to in paragraph 25 (1) (b), there are more than 2 candidates for appointment,

the Corporation shall hold an election for the purpose of determining which of the candidates is to be appointed.

(2) Voting at an election referred to in sub-section (1) shall be by secret ballot.

(3) If, by reason of 2 or more candidates having received the same number of votes at an election referred to in sub-section (1), there is a total or partial failure of the election, 1 or 2 of those candidates, as the case requires, shall be chosen by lot to fill the vacant office or offices concerned, and the candidate or candidates so chosen shall be deemed, for the purposes of this Act, to have been elected to that office or those offices, as the case may be, under this section.

Deputies of members

17. (1) Subject to sub-sections (2), (3) and (4), the Minister may appoint a person other than a member to be the deputy of a member other than the Chairman.

(2) A person appointed under sub-section (1) to be the deputy of a member referred to in paragraph 13 (1) (b), (c) or (d) shall be a person who—

- (a)** is qualified to be a candidate for election as a member referred to in that paragraph; and
- (b)** is nominated for the purpose by the member or, if the member fails to nominate a person for the purpose within 7 days after the receipt by him of a written request by the Corporation to do so, by the Corporation.

(3) A person appointed under sub-section (1) to be the deputy of a member referred to in paragraph 13 (1) (e) shall be a person nominated for the purpose by the co-operatives organization.

(4) A person appointed under sub-section (1) to be the deputy of a member referred to in paragraph 13 (1) (f) shall be a person nominated for the purpose by the growers organization.

(5) The Minister may, at any time, revoke the appointment of a person as the deputy of a member and shall revoke such an appointment if the deputy fails, without reasonable excuse, to comply with his obligations under section 21.

(6) The deputy of a member may resign his office by writing signed by him and delivered to the Minister.

(7) The deputy of a member is entitled, in the event of the absence of the member from a meeting of the Corporation or, if the member is also a member of the Executive Committee, from a meeting of that Committee, to attend that meeting and, when so attending, shall be deemed to be a member of the Corporation or a member of that Committee, as the case requires.

(8) The appointment of a person as the deputy of a member is not invalidated, and shall not be called in question, by reason of a defect or irregularity in or in connection with his appointment.

Leave of absence

18. The Minister may grant leave of absence to a member upon such terms and conditions as to remuneration or otherwise as the Minister determines.

Resignation of members

19. A member may resign his office by writing signed by him delivered to the Minister.

Termination of appointments

20. (1) The Minister may terminate the appointment of a member by reason of the misbehaviour, or the physical or mental incapacity, of the member.

(2) The Minister may, at the request of the co-operatives organization, terminate the appointment of a member referred to in paragraph 13 (1) (e).

(3) The Minister may, at the request of the growers organization, terminate the appointment of a member referred to in paragraph 13 (1) (f).

(4) If a member—

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

(b) fails, without reasonable excuse, to comply with his obligations under section 21;

(c) being a member referred to in paragraph 13 (1) (b), (c) or (d), ceases to be eligible, under the regulations, to hold office as such a member; or

(d) not being the member representing the Commonwealth, is absent from 3 consecutive meetings of the Corporation or, if he is a member of the Executive Committee, from 3 consecutive meetings, whether meetings of the Corporation or of the Executive Committee, otherwise than—

(i) on business of the Corporation undertaken with the approval of the Corporation or of the Executive Committee; or

(ii) on leave of absence granted under section 18,

whether or not his deputy attends any or all of the meetings from which he is absent,

the Minister shall terminate the appointment of the member.

Disclosure of interests by members, &c.

21. (1) A member, or a deputy of a member, who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Corporation or the Executive Committee shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Corporation or of the Executive Committee, as the case requires.

(2) A disclosure under sub-section (1) shall be recorded in the minutes of the meeting of the Corporation or of the Executive Committee, as the case requires.

Meetings of Corporation

22. (1) Subject to this section, meetings of the Corporation shall be held at such times and places as the Corporation from time to time determines.

(2) The Minister or the Chairman may at any time convene a meeting of the Corporation.

(3) At a meeting of the Corporation, 8 members constitute a quorum.

(4) The Chairman shall preside at all meetings of the Corporation at which he is present.

(5) If the Chairman is not present, but the Deputy Chairman is present, at a meeting of the Corporation, the Deputy Chairman shall preside at that meeting.

(6) If neither the Chairman nor the Deputy Chairman is present at a meeting of the Corporation, the members present shall elect one of their number to preside at that meeting.

(7) A question arising at a meeting of the Corporation shall be decided by a majority of the votes of the members present and voting.

(8) The member presiding at a meeting of the Corporation has a deliberative vote and, in the event of an equality of votes, has a casting vote.

(9) The Corporation shall keep minutes of its proceedings.

(10) Subject to the preceding provisions of this section, the procedure at meetings of the Corporation shall be as determined by the Corporation.

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

(12) A person referred to in sub-section (11) shall be paid such fees, allowances and expenses (if any) as the Minister determines in respect of his attendance at a meeting of the Corporation.

PART IV—THE EXECUTIVE COMMITTEE

Establishment of Executive Committee

23. There is established by this section an Executive Committee of the Corporation.

Powers and functions of Executive Committee

24. (1) The Executive Committee shall have, and may exercise, such of the powers, and shall perform such of the functions, of the Corporation as the Corporation determines.

(2) The exercise of a power, or the performance of a function, by the Executive Committee does not prevent the exercise of the power, or the performance of the function, by the Corporation.

Constitution of Executive Committee

25. (1) The Executive Committee shall consist of 5 members, namely:

- (a) the Chairman of the Corporation;
- (b) 2 of the members representing commercial producers;
- (c) 1 of the members representing co-operative producers; and
- (d) 1 of the members representing wine grape growers.

(2) The members of the Executive Committee referred to in paragraphs (1) (b), (c) and (d) shall be appointed by the Corporation.

Chairman of Executive Committee

26. The Chairman of the Corporation is the Chairman of the Executive Committee.

Term of office of members of Executive Committee

27. (1) Subject to this Act, a member appointed as a member of the Executive Committee holds office for a term commencing on the date of his appointment or such later date as the Corporation determines and ending immediately before the anniversary of the commencing date next succeeding his appointment.

(2) A member of the Executive Committee ceases to be a member of that Committee if he ceases to be a member of the Corporation.

Resignation of members of Executive Committee

28. (1) A member of the Executive Committee, other than the Chairman, may resign his office as such a member by writing signed by him and delivered to the Chairman.

(2) Whenever a vacancy occurs in the office of a member of the Executive Committee other than the Chairman before the expiration of the period for which the member was entitled to hold that office, the Corporation may, in accordance with section 25, appoint a member of the Corporation to that office for the remainder of that period.

Meetings of Executive Committee

29. (1) Subject to this section, meetings of the Executive Committee shall be held at such times and places as the Committee determines.

(2) The Chairman may at any time convene a meeting of the Executive Committee.

(3) At a meeting of the Executive Committee, 3 members constitute a quorum.

(4) The Chairman shall preside at all meetings of the Executive Committee at which he is present.

(5) If the Chairman is not present, but the Deputy Chairman is present, at a meeting of the Executive Committee, the Deputy Chairman shall preside at that meeting.

(6) If neither the Chairman nor the Deputy Chairman is present at a meeting of the Executive Committee, the members present shall elect one of their number to preside at that meeting.

(7) A question arising at a meeting of the Executive Committee shall be decided by a majority of the votes of the members of the Committee present and voting.

(8) The member of the Executive Committee presiding at a meeting of the Committee has a deliberative vote and, in the event of an equality of votes, has a casting vote.

(9) Subject to the preceding provisions of this section, the procedure at meetings of the Executive Committee shall be as determined by the Committee.

(10) The Executive Committee shall keep minutes of its proceedings.

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

(12) A person referred to in sub-section (11) shall be paid such fees, allowances and expenses (if any) as the Minister determines in respect of his attendance at a meeting of the Executive Committee.

PART V—STAFF

Employees

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

(2) The terms and conditions of service or employment (in respect of matters not provided for by this Act) of persons appointed or engaged under this section are such as are, subject to the approval of the Public Service Board, determined by the Corporation.

Rights of public servants engaged under this Act

31. Where a full-time employee of the Corporation was, immediately before his engagement by the Corporation under section 30, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act 1928* applied—

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service under this Act shall be taken into account as if it were service in the Australian Public Service; and
- (c) that Act applies as if this Act and this section had been specified in the Schedule to that Act.

PART VI—FINANCE

Payments to Corporation

32. There shall be paid to the Corporation out of the Consolidated Revenue Fund, which is appropriated accordingly, amounts equal to—

- (a) the amounts received by the Commonwealth under the *Wine Grapes Charges Act 1929* in its application by virtue of sub-section 3 (2) of the *Wine Grapes Charges (Repeal) Act 1979*; and
- (b) the amounts received by the Commonwealth under sections 4 and 5 of the *Wine Grapes Levy Collection Act 1979*,

being amounts so received on or after the commencing day.

Payments by Corporation to Commonwealth

33. Where—

- (a) a refund is made by the Commonwealth in accordance with section 7 of the *Wine Grapes Levy Collection Act 1979* in respect of an amount that has been paid or overpaid to the Commonwealth; and
- (b) that amount has been taken into account in calculating the amount of a payment under section 32 of this Act or under sub-section 21 (1) of the *Wine Overseas Marketing Act 1929*,

the Corporation shall pay to the Commonwealth an amount equal to the amount of the refund.

Borrowing

34. (1) The Corporation may, with the approval of the Treasurer—

- (a) borrow moneys for the purpose of—
 - (i) performing its function of promoting the export of grape products from Australia;
 - (ii) performing its function of promoting the consumption and sale of grape products both in Australia and overseas; and
 - (iii) exercising its power to engage in trade; and
- (b) give security over the whole or any part of its assets for the repayment of amounts borrowed under this section and for the payment of interest on amounts so borrowed.

(2) The Treasurer may, on behalf of the Commonwealth, guarantee the repayment of amounts borrowed under this section and the payment of interest on amounts so borrowed.

(3) The Corporation shall not borrow moneys except in accordance with this section.

Application of moneys of Corporation

35. Subject to section 36, the moneys of the Corporation may be applied only—

- (a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Corporation in or in

connection with the performance of its functions, or the exercise of its powers, under this Act;

- (b) in payment of any remuneration, allowances, fees or expenses payable under this Act; and
- (c) in making any other payments that the Corporation is authorized or required to make under this Act.

Investment

36. Without limiting the generality of section 63E of the *Audit Act* 1901 in its application to the Corporation by virtue of section 38 of this Act, moneys of the Corporation not immediately required for the purposes of the Corporation may be invested in securities of, or guaranteed by, the Commonwealth or a State.

Limit on contracts

37. The Corporation shall not, without the approval of the Minister, enter into a contract, other than a contract for the purchase or sale of any grape products, under which the Corporation is to pay or receive an amount exceeding \$100,000 or, if a higher amount is for the time being prescribed for the purposes of this section, that higher amount.

Application of Division 2 of Part XI of the Audit Act

38. (1) It is hereby declared that the Corporation is a public authority to which Division 2 of Part XI of the *Audit Act* 1901 applies.

(2) Division 2 of Part XI of the *Audit Act* 1901 applies in relation to the Corporation subject to the modification contained in sub-section (3).

(3) Section 63H of the *Audit Act* 1901 applies in relation to the Corporation as if the reference in sub-section (1) of that section to as soon as practicable after 30 June in each year were a reference to as soon as practicable after, but not more than 6 months after, 30 June in each year.

Liability to taxation

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

(2) Subject to sub-section (3), the Corporation is not subject to taxation under a law of a State or Territory.

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

PART VII—MISCELLANEOUS

Remuneration and allowances

- 40. (1)** This section applies to a person who is—
- (a) a member;

- (b) a deputy of a member; or
- (c) a member of a committee constituted under section 11 other than a member of the Corporation.

(2) 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, he shall be paid such remuneration as is prescribed.

(3) A person to whom this section applies shall be paid such allowances as are prescribed.

(4) Sub-sections (2) and (3) have effect subject to the *Remuneration Tribunals Act 1973*.

(5) If a person to whom this section applies is also a member of, or a candidate for election to, the Parliament of the Commonwealth or of a State, he shall not be paid remuneration or allowances under sub-section (2) or (3) but shall be reimbursed such expenses as he reasonably incurs by reason of—

- (a) his attendance at meetings of the Corporation and, if he is a member of the Executive Committee or of a committee constituted under section 11, at meetings of the Executive Committee or of the committee so constituted; or
- (b) his engagement (whether in Australia or overseas), with the approval of the Corporation or of the Executive Committee, on the business of the Corporation.

Indemnity

41. A member or a deputy of a member is not personally liable for an act or default of the Corporation or of the member, or the deputy of the member, as the case may be, acting as such.

Corporation may require information

42. (1) The Corporation may, by notice in writing given, or sent by post, to a person, require the person to furnish, within such time as is specified in the notice, such information, in addition to any other information that he is required to furnish under this Act or any other Act, in relation to the production of prescribed goods or grape products or to prescribed goods or grape products owned by him or under his control as is specified in the notice.

(2) A person shall not, without reasonable excuse, fail or neglect duly to furnish information that he is required to furnish by virtue of a notice given, or sent by post, to him under sub-section (1).

(3) A person is not excused from furnishing information that he is required to furnish by virtue of a notice given, or sent by post, to him under sub-section (1) on the ground that the information might tend to incriminate him or make him liable to a penalty, but any information so furnished is not admissible in evidence against him in proceedings other than proceedings for an offence against sub-section (4).

(4) A person shall not furnish to the Corporation information that is false or misleading in a material particular.

Penalty: \$1,000.

Delegation

43. (1) The Corporation may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate to a person, to the Executive Committee or to a committee established under section 11 any of its powers under this Act, other than 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 Corporation.

(3) A delegation under this section does not prevent the exercise of a power by the Corporation.

Offences in relation to export of grape products

44. A person shall not export a grape product from Australia in contravention of the regulations.

Penalty: \$2,000.

Operation of other Acts not affected

45. Nothing in this Act or the regulations restricts the operation of the *Customs Act 1901* or the *Commerce (Trade Descriptions) Act 1905* or of any regulations made under either or both of those Acts.

Regulations

46. (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 elections and the holding of office by members referred to in paragraphs 13 (1) (b), (c) and (d) including, in particular, provision with respect to—
 - (i) the preparation of rolls of electors;
 - (ii) the eligibility of persons to be nominated as candidates and to hold office as members;
 - (iii) the time for, and the manner of, conducting elections;
 - (iv) the manner of casting and counting votes at elections;
 - (v) the determination of disputes arising out of elections; and
 - (vi) offences in relation to elections;
- (b) making provision with respect to the filling of a vacancy in the office of a member referred to in paragraph 13 (1) (b), (c) or (d) that exists, or will exist, by reason of the failure, or partial failure, of an election;
- (c) prohibiting the export of a grape product from Australia except subject to and in accordance with prescribed conditions, including, in particular—

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- (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 Corporation 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 Corporation; or
 - (iv) conditions relating to the price, or form of consignment, of the grape product;
- (d) making provision with respect to—
- (i) the grant, suspension or cancellation by the Minister, or a person authorized by him, of licences to export a grape product from Australia; and
 - (ii) the issuing or revocation by the Corporation, 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;
- (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;
- (f) authorizing the Corporation, 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 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;
- (g) requiring persons to furnish returns and information necessary for the purposes of this Act; and
- (h) providing for penalties not exceeding a fine of \$500 for offences against the regulations.

(2) The regulations may confer on the Corporation such functions in relation to grape juice manufactured in Australia from grapes grown in Australia as are specified in the regulations.

(3) Where the regulations confer functions on the Corporation under subsection (2), without prejudice to its effect apart from this sub-section, this Act also has effect, for the purpose of enabling the Corporation to exercise those functions, subject to such modifications and adaptations (if any) as are specified in the regulations.

PART VIII—REPEAL OF CERTAIN ACTS AND CONSEQUENT TRANSITIONAL PROVISIONS

Interpretation

47. In this Part, “Board” means the Australian Wine Board established by the *Wine Overseas Marketing Act 1929*.

Repeal of certain Acts

48. The Acts specified in the Schedule are repealed.

Rights, &c., of Board to vest in Corporation, &c.

49. (1) Upon the commencing date—

- (a) any rights, property or assets that, immediately before that date, were vested in the Board are, by force of this sub-section, vested in the Corporation; and
- (b) the Corporation becomes, by force of this sub-section, liable to pay and discharge any debts, liabilities or obligations of the Board that existed immediately before that date.

(2) An arrangement or contract entered into by or on behalf of the Board as a party and in force immediately before the commencing date continues in force, notwithstanding the repeal of the Acts specified in the Schedule, but that arrangement or contract has effect, on and after the commencing date, as if—

- (a) the Corporation were substituted for the Board as a party to the arrangement or contract; and
- (b) any reference in the arrangement or contract to the Board were (except in relation to matters that occurred before that date) a reference to the Corporation.

(3) Where, immediately before the commencing date, proceedings to which the Board was a party were pending in any court, the Corporation is, by force of this sub-section, substituted for the Board as a party to the proceedings and has the same rights in the proceedings as the party for which it is substituted.

Instrument, &c., not liable to stamp duty, &c.

50. An instrument or document that the Secretary to the Department of Primary Industry or an officer of that Department authorized by him in writing for the purpose of this section certifies to have been made, executed or given by reason of, or for a purpose connected with or arising out of, the operation of this Part is not liable to stamp duty or other tax under a law of the Commonwealth or of a State or Territory.

Application of moneys of Corporation

51. The moneys of the Corporation may be applied in payment or discharge of the debts, liabilities and obligations referred to in paragraph 49 (1) (b).

Moneys to be paid to Corporation in respect of levy, &c.

52. There shall be paid to the Corporation out of the Consolidated Revenue Fund, which is appropriated accordingly, an amount equal to the aggregate of any amounts received by the Commonwealth, before the commencing date—

- (a) as charge under the *Wine Grapes Charges Act 1929* (including that Act in its application by virtue of sub-section 3 (2) of the *Wine Grapes Charges (Repeal) Act 1979*;
- (b) as levy under the *Wine Grapes Levy Act 1979*; or
- (c) as penalties under section 5 of the *Wine Grapes Levy Collection Act 1979*,

that have not been taken into account in making a payment to the Board under sub-section 21 (1) of the *Wine Overseas Marketing Act 1929*, less an amount equal to the aggregate of any amounts to be paid by the Commonwealth by way of refund under section 7 of the *Wine Grapes Levy Collection Act 1979* in respect of any amounts so received.

Employees of Board

53. (1) A person who, immediately before the commencing date, was employed by the Board shall, by virtue of this sub-section, be deemed to be, on that date, engaged as an employee of the Corporation under section 30.

(2) Terms and conditions of employment applicable to a person referred to in sub-section (1) immediately before the commencing date shall, by virtue of this sub-section, be deemed to be terms and conditions of employment determined under sub-section 30 (2), but those terms and conditions may, at any time after the commencing date, be varied under that sub-section.

Report on operations of Board

54. (1) The Corporation shall, not later than 6 months after the commencing date, prepare and submit to the Minister a report on the operation of the *Wine Overseas Marketing Act 1929* during the period that—

- (a) commenced immediately after the expiration of the last period in respect of which a report was submitted by the Board to the Minister in pursuance of section 29 of that Act; and
- (b) ended immediately before the commencing date.

(2) The Minister shall cause a copy of the report, together with a statement by the Minister regarding the operation of the *Wine Overseas Marketing Act 1929* during the period to which the report relates, to be laid before each House of the Parliament within 15 sitting days of that House after the receipt of the report by the Minister.

(3) The persons who, immediately before the commencing date, were members of the Board shall furnish to the Corporation such information as is necessary to enable the Corporation to prepare the report.

Regulations

55. The regulations may make provision for and in relation to the continued effect, for the purposes of the regulations, of licences and certificates in force, immediately before the commencing date, under regulations made for the purposes of the *Wine Overseas Marketing Act 1929*.

SCHEDULE

Section 48

ACTS REPEALED

Wine Overseas Marketing Act 1929
Wine Overseas Marketing Act 1930
Wine Overseas Marketing Act 1936
Wine Overseas Marketing Act 1945
Wine Overseas Marketing Act 1953
Wine Overseas Marketing Act 1954
Wine Overseas Marketing Act 1961
Wine Overseas Marketing Act 1963
Wine Overseas Marketing Act 1973
Wine Overseas Marketing Amendment Act 1979