



Australian Wine and Brandy Corporation Amendment Regulations 2005 (No. 1)¹

Select Legislative Instrument 2005 No. 39

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Australian Wine and Brandy Corporation Act 1980*.

Dated 23 March 2005

P. M. JEFFERY
Governor-General

By His Excellency's Command

WARREN TRUSS
Minister for Agriculture, Fisheries and Forestry

1 Name of Regulations

These Regulations are the *Australian Wine and Brandy Corporation Amendment Regulations 2005 (No. 1)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Australian Wine and Brandy Corporation Regulations 1981*

Schedule 1 amends the *Australian Wine and Brandy Corporation Regulations 1981*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 3, definition of *Australian standard*

substitute

Australian standard means a standard:

- (a) within the meaning of the *Food Standards Australia New Zealand Act 1991*; and
- (b) as in force on 1 January 2005.

[2] Regulation 3, definition of *Food Standards Code*

substitute

Food Standards Code means the Australia New Zealand Food Standards Code:

- (a) within the meaning of the *Food Standards Australia New Zealand Act 1991*; and
- (b) as in force on 1 January 2005.

[3] Regulation 3, after definition of *proposed GI*

insert

relative, in relation to an individual, means the spouse, parent or remoter lineal ancestor, son, daughter or remoter issue, or brother or sister of the individual.

[4] After paragraph 5 (3) (a)

insert

(b) whether the applicant has a place of business in Australia; and

[5] After paragraph 6 (1) (e)

insert

(ea) the exporter has complied with any request for further information made under subregulation 7 (3A); and

[6] Subregulation 6 (2)

substitute

- (2) Subregulation (1) does not apply to the export of a small quantity of grape product within the meaning given by subregulation (3) or (4).
- (3) A quantity of grape product is a *small quantity* of grape product if it is to be exported, whether or not to 1 consignee:
- (a) by 1 exporter, or by 2 or more exporters that are taken to be 1 exporter; and
 - (b) on 1 ship or aircraft to a single port of discharge; and
 - (c) in a total quantity of no more than 100 litres.
- (4) A quantity of grape product is a *small quantity* of grape product if it is any of the following:
- (a) a quantity of grape product that is contained in the personal luggage of a traveller;
 - (b) a quantity of grape product for the household of an individual who is moving house;

- (c) a quantity of grape product that is intended to be displayed at a trade fair or comparable event;
 - (d) a quantity of grape product that is to be exported for a scientific or technical purpose;
 - (e) a quantity of grape product that is to be exported by a diplomatic, consular or similar establishment as part of the duty-free allowance of the establishment;
 - (f) a quantity of grape product that is held on board a means of international transport as victualling supplies;
 - (g) a quantity of grape product that is a commercial sample for a prospective buyer.
- (5) For paragraph (3) (a), 2 or more exporters are taken to be 1 exporter if the exporters are:
- (a) related bodies corporate (within the meaning of the *Corporations Act 2001*); or
 - (b) individuals who are relatives; or
 - (c) individuals who are acting in concert with each other.

[7] After subregulation 7 (3)

insert

- (3A) For the purpose of considering a notification, the Corporation may request the licensee to give it information that satisfies the Corporation that a requirement relating to the description and presentation of the grape product under a Commonwealth, State or Territory law has been met.

Example

If a grape product is described as 'organic' and is a product to which the Export Control (Organic Produce Certification) Orders apply, the Corporation may ask the licensee who proposes to export the product to give the Corporation information that satisfies it that an organic produce certificate has been issued for the product.

- (3B) A request under subregulation (3A) must:
- (a) be made in writing within 3 working days after the Corporation receives the notification; and
 - (b) identify the requirement and the Commonwealth, State or Territory law under which it applies; and

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- (c) state the date by which the licensee must give the information to the Corporation.

[8] Regulation 8

substitute

8 Powers of Corporation

The Corporation, or a person authorised by it, may give to a licensee written directions about the quantities of grape product that the licensee may export:

- (a) generally; or
- (b) to a country specified in the directions; or
- (c) to a person, agent or representative specified in the directions.

[9] Subregulations 9 (1), (2) and (3)

substitute

- (1) The Corporation may suspend or cancel a licence if:
 - (a) a material change has occurred in respect of the licensee in relation to a matter referred to in subregulation 5 (3); and
 - (b) if the change is to the licensee's place of business in Australia — the licensee does not inform the Corporation of the new place of business in Australia within 14 days of the change.

[10] Subregulation 9 (4)

renumber as subregulation 9 (2)

[11] Subregulation 9 (5)

renumber as subregulation 9 (3)

[12] Paragraph 10 (d)

omit

subregulation 9 (2), (3), (4) or (5)

insert

regulation 9

[13] Paragraph 12 (1) (b)

substitute

- (b) that is exported, whether or not to 1 consignee:
- (i) by 1 exporter, or by 2 or more exporters that are taken to be 1 exporter; and
 - (ii) on 1 ship or aircraft to a single port of discharge; and
 - (iii) in a total quantity of no more than 100 litres;

[14] Subregulation 12 (3)

substitute

- (3) For subparagraph (1) (b) (i), 2 or more exporters are taken to be 1 exporter if the exporters are:
- (a) related bodies corporate (within the meaning of the *Corporations Act 2001*); or
 - (b) individuals who are relatives; or
 - (c) individuals who are acting in concert with each other.

[15] After Part 6

insert

Part 7 Miscellaneous

60 Delegation

- (1) The Corporation may, by writing under its common seal, delegate any or all of its powers under these Regulations (except this power of delegation) to a person or to a committee appointed under section 11 of the Act.
- (2) A power delegated under subregulation (1), if exercised by the delegate, is taken to have been exercised by the Corporation.
- (3) A delegation under subregulation (1) does not prevent the exercise of a power by the Corporation.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.