

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2012 No. 161**

Issued by the Authority of the Parliamentary Secretary for Agriculture, Fisheries and Forestry

*Wine Australia Corporation Act 1980*

*Wine Australia Corporation Amendment Regulation 2012 (No. 1)*

Section 46 of the *Wine Australia Corporation Act 1980* (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 Act establishes the Wine Australia Corporation. The Corporation's activities include providing strategic support to the Australian wine sector; export regulation and compliance; domestic and international wine promotion; and wine sector information and analysis.

The Act and the *Wine Australia Corporation Regulations 1981* (the Principal Regulations) operate together to protect geographical indications (GI) for wine. They establish a system for determining GIs, registering them and rules for use. A GI identifies a good as originating in a specific territory, region or locality where a particular quality, reputation or other characteristic is essentially attributable to its geographical origin.

The purpose of the *Wine Australia Corporation Amendment Regulation 2012 (No. 1)* was to include a provision allowing a person to make an objection to the determination of an Australian GI on the basis that the name of the GI was already in common use as the name of a type or style of wine or as the name of a variety of grapes.

The Regulation brings the determination process for Australian GIs in line with the determination of foreign GIs, as provided in Regulation 58(5) of the Principal Regulations. The amendment ensures that the GI determination process is consistent with Australia's World Trade Organization obligation and no less burdensome than the process for determining foreign GIs.

The Department of Foreign Affairs and Trade, IP Australia, the Wine Australia Corporation and the Winemakers' Federation of Australia were consulted about this Regulation and support its implementation. The Office of Best Practice Regulation was consulted in the preparation of the Regulation (reference number ID 12749).

The Act specifies no conditions that need to be satisfied before the power to make the Regulation was exercised.

Details of the Regulation are contained in the Attachment.

The Regulation commenced on the day after it was registered in the Federal Register of Legislative Instruments.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

**Details of the *Wine Australia Corporation Amendment Regulation 2012 (No. 1)***

**Section 1 – Name of Regulation**

This Section provides for the title of the Regulation to be the *Wine Australia Corporation Amendment Regulation 2012 (No. 1)*.

**Section 2 – Commencement**

This Section provides for the Regulation to commence on the day after it is registered on the Federal Register of Legislative Instruments.

**Section 3 – Amendment of *Wine Australia Corporation Regulations 1981***

This Section provides for the *Wine Australia Corporation Regulations 1981* to be amended as set out in Schedule 1.

**Schedule 1 – Amendments**

**Item 1** amends Division 4 of Part VIB of the *Wine Australia Corporation Act 1980* (the Act) so the application of subsection 40PA(3) of the Act are modified as set out in Schedule 4.

**Item 2** substitutes the existing paragraph (b) with a new paragraph (b) and include a new paragraph (b)(a) to Regulation 45. This substitution extends the definition of party to include a person who objected to the determination of an Australia geographical indication (GI) on the basis that the proposed GI is the common name for a type or style of wine, or as the name of a variety of grape.

**Item 3** amends Division 4 of Part VIB of the Act by inserting subsection 40RB(5). The insertion provides that a person could object to the determination of an Australian GI on the basis that the proposed name of the GI is the common name for a type or style of wine, or as the name of a variety of grape.

## **Statement of Compatibility with Human Rights**

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

### **Wine Australia Corporation Amendment Regulation 2012 (No. 1)**

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**

This Legislative Instrument amends the *Wine Australia Corporation Regulations 1981* (the Principal Regulations) to bring the determination process for Australian Geographical Indications (GIs) in line with the determination of foreign GIs. The Act 1980 and the Principal Regulations operate together to protect GIs for wine.

#### **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.

**The Hon. Peter Douglas Sidebottom MP,  
Parliamentary Secretary for Agriculture, Fisheries and Forestry**