

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument No. 70, 2014**

Issued by Authority of the Minister for Agriculture

*Wine Australia Corporation Act 1980*  
*Customs Administration Act 1985*  
*Privacy Act 1988*

*Wine Australia Corporation Legislation Amendment (Wine Labelling) Regulation 2014*

#### **Legislative Authority**

Section 46 of the *Wine Australia Corporation Act 1980* provides, in part, that the Governor-General may make regulations consistent with the Act to prescribe all matters permitted and required to give effect to the Act. Section 18 of the *Customs Administration Act 1985* and Section 100 of the *Privacy Act 1988* provide that the Governor-General may make regulations consistent with the Acts to prescribe matters required or permitted by the Acts to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Acts.

#### **Purpose**

The purpose of Schedule 1 to the Regulation is to make the *Wine Australia Corporation Regulations 1981* consistent with the *Protocol to the 2007 World Wine Trade Group Agreement on Requirements for Wine Labelling Concerning Alcohol Tolerance, Vintage, Variety, and Wine Regions*, which Australia signed on 30 April 2013. The Protocol provides “Where wine is labelled with a single wine region recognised by the exporting Party to be a single delimited grape growing area, the importing Party may require that at least 85 per cent of the wine is obtained from grapes grown in the named wine region.” The Regulation will implement the provision.

The purpose of Schedule 2 to the Regulation is to update the *Customs Administration Regulations 2000* and *Privacy Regulation 2013*, and update and rename the *Wine Australia Corporation Regulations 1981* to ensure they are consistent with the *Australian Grape and Wine Authority Act 2013* (which will commence on 1 July 2014) and other relevant legislation.

#### **Background**

Section 40C of the *Wine Australia Corporation Act 1980*, makes it an offence for a person to sell, export or import a wine with a false description and presentation, meaning that if a wine is labelled with a geographical indication (GI) (for example the Hunter Valley, Barossa or Rutherglen), it must be made from grapes grown in that GI. Regulation 21 of the *Wine Australia Corporation Regulations 1981* gives an exemption to this offence for Australian wines using a GI if at least 85 per cent of the wine was obtained from grapes grown in that GI. Currently, Regulation 21 applies only to Australian wines.

By signing the *Protocol to the 2007 World Wine Trade Group Agreement on Requirements for Wine Labelling Concerning Alcohol Tolerance, Vintage, Variety, and Wine Regions*, Australia agreed to extend the exemption in Regulation 21 to foreign made wines using a GI that is registered in Australia.

The *Australian Grape and Wine Authority Act 2013* provides for a new authority to take the place of the Wine Australia Corporation and the Grape and Wine Research and Development Corporation as of 1 July 2014. Relevant legislation will be updated to remove outdated references and instead refer to the new authority and the *Australian Grape and Wine Authority Act 2013*.

### **Impact and Effect**

Amending the regulations will no longer make it an offence to import and sell foreign wines meeting the 85 per cent criterion for a GI. Australia can also ratify the Protocol, which will provide benefits to industry, such as allowing the use of one label in both Australia and key export markets to reduce trade barriers and lower costs for Australian wine exporters.

### **Consultation**

An industry peak body, the Winemakers' Federation of Australia, was involved in the negotiations of the Protocol and supports the amendments to the Regulations. The wine industry statutory marketing authority, the Wine Australia Corporation, was also involved in the negotiations and supports the change. The Office of Best Practice Regulation was consulted in the preparation of the Regulation (ID 16732).

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

**Details of the *Wine Australia Corporation Legislation Amendment (Wine Labelling) Regulation 2014***

**Section 1 – Name of Regulation**

This Section provides for the title of *Wine Australia Corporation Legislation Amendment (Wine Labelling) Regulation 2014*.

**Section 2 – Commencement**

This Section provides for the commencement of Schedule 1 the day after this Regulation is registered and for Schedule 2 immediately after the commencement of Part 2 of Schedule 1 to the *Grape and Wine Legislation Amendment (Australian Grape and Wine Authority) Act 2013*, on 1 July 2014.

**Section 3 – Authority**

This Section provides for this Regulation to be made under the following Acts:

- a) the *Wine Australia Corporation Act 1980*;
- b) the *Customs Administration Act 1985*;
- c) the *Privacy Act 1988*.

**Section 4 – Schedule(s)**

Schedule 1 – Amendments commencing the day after this regulation is registered

*Wine Australia Corporation Regulations 1981*

**Items 1-3** add or clarify headings.

**Item 4** inserts a heading and paragraph to provide for the description and presentation of wine to use a geographical indication that is registered in relation to a country other than Australia.

**Items 5-6** clarify headings.

**Items 7-8** add reference to “countries” to make the text consistent with the definition of a “foreign place name”.

Schedule 2 – Amendments relating to the *Grape and Wine Legislation Amendment (Australian Grape and Wine Authority) Act 2013*

This schedule provides the amendments to the *Customs Administration Regulations 2000*, *Privacy Regulation 2013* and the *Wine Australia Corporation Regulations 1981*. The amendments will begin on 1 July 2014. The intent of this schedule is to update the Regulations to ensure they are consistent with the *Australian Grape and Wine Authority Act 2013* (which will commence on 1 July 2014) and other relevant legislation.

*Customs Administration Regulations 2000*

**Item 1** will remove an outdated reference to the Wine Australia Corporation and replace it with a reference to the Australian Grape and Wine Authority.

*Privacy Regulation 2013*

**Item 2** will remove an outdated reference to the Wine Australia Corporation and replace it with a reference to the Australian Grape and Wine Authority.

*Wine Australia Corporation Regulations 1981*

**Item 3** will remove an outdated reference to the Wine Australia Corporation and replace it with a reference to the Australian Grape and Wine Authority.

**Item 4** will redefine an outdated definition in the Regulation.

**Items 5-7** remove references to Corporation and replace them with references to Authority.

**Item 8** clarifies a heading.

**Items 9-10** remove references to Corporation and replace them with references to Authority.

**Item 11** clarifies a heading.

**Items 12-13** remove references to Corporation and replace them with references to Authority.

**Item 14** replaces an incorrect use of “subsection” with “sub-regulation.”

**Items 15-16** remove references to Corporation and replace them with references to Authority.

**Item 17** removes a reference to Chairperson of the Corporation and replaces it with a reference to Chair of the Authority.

**Item 18** removes references to Corporation and replaces them with references to Authority.

**Item 19** removes a reference to Chairperson of the Corporation and replaces it with a reference to Chair of the Authority.

**Item 20** removes references to Corporation and replaces them with references to Authority.

**Item 21** removes a reference to Chairperson of the Corporation and replaces it with a reference to Chair of the Authority.

**Item 22** removes references to Corporation and replaces them with references to Authority.

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

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

*Wine Australia Corporation Amendment (Wine Labelling) Regulation 2014*

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**

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The purpose of Schedule 2 to the Regulation is to update the *Customs Administration Regulations 2000* and *Privacy Regulation 2013*, and update and rename the *Wine Australia Corporation Regulations 1981* to ensure they are consistent with the *Australian Grape and Wine Authority Act 2013* (which will commence on 1 July 2014) and other relevant legislation.

### **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. Barnaby Joyce MP**  
**Minister for Agriculture**