

EXPLANATORY STATEMENT

Issued by the Authority of the Deputy Prime Minister and Minister for Agriculture and Water Resources

Primary Industries Levies and Charges Collection Act 1991

Primary Industries (Customs) Charges Act 1999

Primary Industries Legislation Amendment (Wine) Regulations 2017

Legislative Authority

The *Primary Industries Levies and Charges Collection Act 1991* (the Collection Act) relates to the collection of primary industry levies and charges imposed by various Acts. Section 30 of the Collection Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed or that are necessary or convenient for carryout or giving effect to the Act.

Section 8 of the *Primary Industries (Customs) Charges Act 1999* (the Charges Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act for carrying out or giving effect to the Act. Schedule 13 to the Charges Act provides for the ability to impose charges on wine produced in Australia that is exported from Australia.

Purpose

The purpose of the *Primary Industries Legislation Amendment (Wine) Regulations 2017* (the Regulations) is to remove the requirement that all Australian licensed wine exporters (exporters) submit quarterly returns and increase the threshold exempting an exporter from submitting a quarterly return from \$200 to \$1000. The Regulations also replace references to the former Australian Wine and Brandy Corporation with the Australian Grape and Wine Authority (AGWA).

Background

Exporters collectively invest in international promotional work through the wine export charge to create a sustainable increase in the demand for Australian wine. AGWA undertakes this work on behalf of the Australian wine industry. The wine export charge is established under Schedule 13 of the *Primary Industries (Customs) Charges Act 1999*. In October 2015, the Secretary of the Department of Agriculture and Water Resources entered into a Collection Agreement with AGWA under subsection 11(1) of the Collection Act, transferring the responsibility for the collection of the wine export charge from the Department of Agriculture and Water Resources to AGWA. The Regulations will remove the requirement for exporters to submit multiple forms to regulators when exporting wine from Australia while maintaining the amount of export charge collected on behalf of the wine industry.

Historically, regulations that provided for the collection of the wine export charge required all exporters to submit quarterly returns, including submitting returns for a quarter where they did not export wine, unless an exemption from lodging quarterly returns was granted under Part 13 of Schedule 35 of the Primary Industries Levies and Charges Collection Regulations 1991.

Impact and Effect

The Australian Government's *Levy Principles and Guidelines* provide for the Australian Government to initiate amendments to the collection mechanism of any levy or charge if it ceases to be efficient and practical. The Regulations provide efficiencies to the collection of the wine export charge by only requiring an exporter to submit a quarterly return if they exported more than \$1000 of wine in the quarter.

Under the proposed Regulations, an exporter who exports less than \$1000 of wine in a quarter would still be required to pay the export charge and submit a return annually. AGWA considers that increasing the quarterly return threshold to \$1000 each quarter is the most efficient value at which a quarterly return should be submitted. Removing the requirement for exporters to submit a return without exporting wine in a quarter and increasing the quarterly exemption value would reduce the total number of returns that are received and processed by AGWA each year by approximately 2,300 returns.

Under section 24 of the Collection Act, a person must not refuse or fail to give a return or information that the person is required to give under the Act. Consistent with the principles of "*A guide to framing Commonwealth Offences, Infringement Notices and Enforcement Powers*", applying a strict liability is necessary to ensure the integrity of the regulatory regime. The penalty does not exceed the maximum 60 penalty units for an individual.

Consultation

AGWA were consulted throughout the development of the amendment regulations. AGWA, as the wine export charge regulator, will continue to notify exporters about their reporting requirements. The Office of Best Practice Regulation (OBPR) confirmed that a regulation impact statement was not required (OBPR ID: 20836).

Details/ Operation

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

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*.

The Regulations commence on 1 July 2017.

Details of the *Primary Industries Legislation Amendment (Wine) Regulations 2017*

Section 1 – Name

This section provides that the name of the Regulations are the *Primary Industries Legislation Amendment (Wine) Regulations 2017*.

Section 2 – Commencement

This section provides for the Regulations to commence on 1 July 2017.

Section 3 – Authority

This section provides that the Regulations are made under the *Primary Industries Levies and Charges Collection Act 1991* and the *Primary Industries (Customs) Charges Act 1999*.

Section 4 – Schedules

This section provides that the instruments specified in Schedule 1 are amended as set out in Schedule 1.

Schedule 1 – Amendments

Part 1 – Amendments relating to the Australian Grape and Wine Authority

Primary Industries (Customs) Charges Regulations 2000

Item 1 – Clause 1 of Schedule 13

This item omits a reference to the ‘*Australian Wine and Brandy Corporation Act 1980*’ and substitutes it with a reference to the ‘*Australian Grape and Wine Authority Act 2013*’.

Item 2 – Clause 1 of Schedule 13 (note)

This item omits a reference to the ‘*Australian Wine and Brandy Corporation Regulations*’ and substitutes it with a reference to the ‘*Australian Grape and Wine Authority Regulations 1981*’.

Primary Industries Levies and Charges Collection Regulations 1991

Item 3 – Clause 2 of Schedule 35

This item inserts a definition that ‘**Authority** means the Australian Grape and Wine Authority’.

Item 4 – Clause 2 of Schedule 35 (definition of *Corporation*)

This item repeals the definition of *Corporation*.

Item 5 – Clause 2 of Schedule 35 (definition of *licence*)

This item omits a reference to “issued under regulation 5 of the Australian Wine and Brandy Corporation Regulations,” and substitutes it with a reference to “granted under regulation 5 of the *Australian Grape and Wine Authority Regulations 1981*,”.

Item 6 – Clause 5 of Schedule 35 (heading)

This item repeals the heading “**5 Obligation of Corporation**” and substitutes it with the heading “**5 Obligation of Authority**”.

Item 7 – Clause 5 of Schedule 35

This item omits a reference to the “Corporation” and substitutes it with a reference to the “Authority”.

Part 2 – Amendments relating to returns

Primary Industries Levies and Charges Collection Regulations 1991

Item 8 – Clause 7 of Schedule 35

This item omits the reference “must lodge a quarterly return” and substitutes it with the reference “that has exported wine (other than exempt wine) in a quarter must lodge a quarterly return for the quarter”.

Item 9 – Clause 13 of Schedule 35

This item omits the reference “\$200” and substitutes it with a reference to “\$1000”.

Item 10 – Paragraph 14(1)(c) of Schedule 35

This item omits the reference “\$200” and substitutes it with a reference to “\$1000”.

Statement of Compatibility with Human Rights

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

Primary Industries Legislation Amendment (Wine) Regulations 2017

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 purpose of the Legislative Instrument is to amend the wine export charge collection mechanism and reduce the regulatory and administrative burden on Australian wine exporters and the Australian Grape and Wine Authority.

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
Deputy Prime Minister and Minister for Agriculture and Water Resources