

2013

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**GRAPE AND WINE LEGISLATION AMENDMENT (AUSTRALIAN GRAPE AND  
WINE AUTHORITY) BILL 2013**

**PRIMARY INDUSTRIES (CUSTOMS) CHARGES AMENDMENT (AUSTRALIAN  
GRAPE AND WINE AUTHORITY) BILL 2013**

**PRIMARY INDUSTRIES (EXCISE) LEVIES AMENDMENT (AUSTRALIAN  
GRAPE AND WINE AUTHORITY) BILL 2013**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Agriculture, the Hon. Barnaby Joyce MP)

# **Grape and Wine Legislation Amendment (Australian Grape and Wine Authority) Bill 2013**

## **Primary Industries (Customs) Charges Amendment (Australian Grape and Wine Authority) Bill 2013**

## **Primary Industries (Excise) Levies Amendment (Australian Grape and Wine Authority) Bill 2013**

### **OUTLINE**

The three Bills (Merger Bills) amend the *Wine Australia Corporation Act 1980* (the Wine Australia Act); *Primary Industries (Customs) Charges Act 1997* and the *Primary Industries (Excise) Levies Act 1997* to implement the merger of the Grape and Wine Research and Development Corporation (GWRDC) and the Wine Australia Corporation (Wine Australia) to create a new wine statutory authority – the Australian Grape and Wine Authority (the Authority).

The Authority will commence on 1 July 2014. It will undertake the functions of the GWRDC and Wine Australia without a change in the structure or amounts of the levies that currently fund both authorities. The assets, staff and functions of GWRDC and Wine Australia will transfer to the Authority.

The GWRDC was established in 1991 under the *Primary Industries and Energy Research and Development Act 1981* (PIERD Act). It plans and invests in research, development and extension programs, and facilitates the dissemination, adoption and commercialisation of the results throughout the industry.

Wine Australia was established in 1981, originally as the Australian Wine and Brandy Corporation, under its own legislation as a statutory marketing corporation.

In August 2012, the Winemakers' Federation of Australia (WFA) and Wine Grape Growers Australia (WGGA) lodged a formal submission requesting that the government agree to merge GWRDC and Wine Australia. WFA and WGGA are the peak wine industry bodies for winemaking and grape growing respectively.

WFA and WGGA proposed creating a single new authority to undertake the existing functions of the current authorities without a change in the structure or amount of levies that fund each authority. WFA and WGGA proposed that a merged authority would enable important links between the investment initiatives and functions of the GWRDC and Wine Australia to be realised under a unified whole-of-industry strategy.

WFA and WGGA argued that the major benefits would be:

- alignment of strategy;
- better service delivery;
- providing one pathway for industry in communicating with the statutory authorities; and
- administrative efficiency gains.

In 2012 WFA and WGGGA undertook a consultation process that included providing information on the merger to levy payers and a series of public meetings. They received letters of support from state and regional associations and major wine companies representing the majority of the industry.

The merger is consistent with the government's deregulation agenda and will provide efficiencies through combining the administrative resources of operating two statutory bodies into one. The merger will also result in reduced red tape where possible, such as removing the requirement for ministerial approval of annual operational plans under the new Authority.

The GWRDC and Wine Australia are both established *Commonwealth Authorities and Companies Act 1997* corporations. On 28 June 2013 the *Public Governance, Performance and Accountability Act 2013* was passed which will replace the CAC Act, subject to the passage of a consequential amendments Bill. When the CAC Act is repealed, consequential changes will be made to the Main wine merger Bill.

The amendments to the *Primary Industries (Customs) Charges Act 1997* and the *Primary Industries (Excise) Levies Act 1997* ensure the new arrangements operate, as intended, in respect of the imposition and collection of the levies.

### **Grape and Wine Legislation Amendment (Australian Grape and Wine Authority) Bill 2013**

This Bill (the Main Bill) creates the Authority. It is divided into two schedules. Schedule 1 amends the Wine Australia Act to create the Authority<sup>1</sup>. Schedule 2 covers matters arising from the transition to the Authority, such as the transfer of assets and liabilities from the GWRDC and Wine Australia to the Authority.

Part 1 of Schedule 1 commences on the day after Royal Assent.

Part 2 of Schedule 1 commences on 1 July 2014.

Schedule 2 also commences on the day after Royal Assent.

The Main Bill also repeals the *Grape and Wine Research and Development Corporation Regulations 1991* which established the GWRDC.

### **Primary Industries (Customs) Charges Amendment (Australian Grape and Wine Authority) Bill 2013**

This Bill replaces references in the *Primary Industries (Customs) Charges Act 1999* to the Wine Australia Corporation with references to the Authority. The change will allow for levies collected to be paid to the Authority.

The Bill also repeals clauses that provided for Wine Australia, following an annual general meeting, to make recommendations to the Minister about the levy rate.

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<sup>1</sup> The Main Bill establishes the Authority as having 5-7 directors and a Chair. The group of directors and Chair are referred to as the board in the notes on the clauses.

## **Primary Industries (Excise) Levies Amendment (Australian Grape and Wine Authority) Bill 2013**

This Bill replaces references in the *Primary Industries (Excise) Levies Act 1999* to the Wine Australia Corporation with references to the Authority. The change will allow for levies collected to be paid to the Authority.

The Bill also repeals clauses that provided for Wine Australia, following an annual general meeting, to make recommendations to the Minister about the levy rate.

### **Financial impact statement**

The proposed amendments have no financial impact on the Australian Government. While the Department of Agriculture may pay for the hiring of consultants to assist in starting the Authority, the Merger Bills provide that the Authority will reimburse the Commonwealth for any costs incurred.

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

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

### **Grape and Wine Legislation Amendment (Australian Grape and Wine Authority) Bill 2013**

The Bill 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 Bill**

The Bill amends the *Wine Australia Corporation Act 1980* to implement the merger of the Grape and Wine Research and Development Corporation (GWRDC) and the Wine Australia Corporation (Wine Australia) to create a new wine statutory authority: the Australian Grape and Wine Authority.

#### **Human rights implications**

The Bill does not engage any of the applicable rights or freedoms.

#### **Conclusion**

The Bill is compatible with human rights as it does not raise any human rights issues.

**Minister for Agriculture,  
the Hon. Barnaby Joyce MP**

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#### **Overview of the Bill**

The Bill amends the *Primary Industries (Customs) Charges Act 1999*.

It is part of a package of Bills that implement the merger of the Grape and Wine Research and Development Corporation and the Wine Australia Corporation to create a new wine statutory authority: the Australian Grape and Wine Authority.

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The Bill does not engage any of the applicable rights or freedoms.

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The Bill 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 Bill**

The Bill amends the *Primary Industries (Excise) Levies Act 1999*.

It is part of a package of Bills that implement the merger of the Grape and Wine Research and Development Corporation (GWRDC) and the Wine Australia Corporation (Wine Australia) to create a new wine statutory authority: the Australian Grape and Wine Authority.

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The Bill does not engage any of the applicable rights or freedoms.

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**Minister for Agriculture,  
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## GLOSSARY and ABBREVIATIONS

The following abbreviations are used in this explanatory memorandum:

Act	<i>Grape and Wine Legislation Amendment (Australian Grape and Wine Authority) Act 2013</i>
Authority	Australian Grape and Wine Authority
Authority Selection Committee	The statutory Committee that selects people for appointment as a director of the Authority and nominates these people to the Minister for consideration as directors of the Authority.
CAC Act	<i>Commonwealth Authorities and Companies Act 1997</i>
GWRDC	Grape and Wine Research and Development Corporation
Main Bill	Grape and Wine Legislation Amendment (Australian Grape and Wine Authority) Bill 2013
Merger Bills	Grape and Wine Legislation Amendment (Australian Grape and Wine Authority) Bill 2013 Primary Industries (Customs) Charges Amendment (Australian Grape and Wine Authority) Bill 2013 Primary Industries (Excise) Levies Amendment (Australian Grape and Wine Authority) Bill 2013
Minister	Minister for Agriculture
PIERD Act	<i>Primary Industries and Energy Research and Development Act 1989</i>
R&D	Research and development
Wine Australia	Wine Australia Corporation
Wine Australia Act	<i>Wine Australia Act 1980</i>

# **GRAPE AND WINE LEGISLATION AMENDMENT (Australian Grape and Wine Authority) BILL 2013**

## **NOTES ON CLAUSES**

### **Section 1: Short title**

This section provides for the Act to be called the *Grape and Wine Legislation Amendment (Australian Grape and Wine Authority) Act 2013*.

### **Section 2: Commencement**

This section provides for Sections 1 to 3 of this Act to come into effect the day the Act receives Royal Assent. Schedule 1 Part 1 and Schedule 2 will come into effect the day after Royal Assent, and Schedule 1 Part 2 will come into effect on 1 July 2014.

### **Section 3: Schedule(s)**

Subclause 3(1) provides that each Act, and each set of regulations that is specified in Schedule 1 or 2 is amended or repealed as set out in the applicable item in the Schedule. It also provides that any other item in a Schedule has effect according to its terms, which relate to provisions such as application provisions.

Subclause 3(2) provides that the amendment of any regulation does not prevent the amendment regulation from being further amended or repealed by the Governor-General in Council.

## **Schedule 1—Amendments**

### **Part 1—Amendments commencing on the day after Royal Assent**

This part provides the amendments to the *Wine Australia Corporation Act 1980* (the Wine Australia Act) that begin on the day after royal assent. The intent of this Part is to allow for the establishment of a selection committee to select the first board of the Authority, allowing for the Authority to be effective from its commencement on 1 July 2014. Item 6 of Schedule 2 provides that the Minister may appoint the first board of the Authority without reference to a selection committee.

#### **Items 1-5**

These items provide for terms in the Act to be defined.

#### **Item 6 After section 5B**

This item adds a new section, 5BA Representative Organisations, which provides for the Minister to declare organisations to be representative organisations. A representative organisation must be consulted on certain matters, such as the appointment of the Chair of the Authority, and has other entitlements, such as the ability to request an Annual General Meeting. Representative organisations must have a link to the wine or grape industry.

WFA is a declared winemakers organisation under the Wine Australia Act and will retain this role. Section 5BA provides for existing declared organisations to also be representative organisations under the Act. The difference between the two types of declarations is that

declared organisations are consulted on certain matters relating to geographical indications while representative organisations are not.

#### **Item 7 Subsection 13(5)**

This item amends subsection 13(5) to provide that the “Selection Committee” is to be the Wine Australia Selection Committee thus avoiding confusion with the Authority Selection Committee.

Item 71 repeals subsection 13(5) from 1 July 2014 as part of the amendments that create the Authority.

#### **Item 8 After subsection 13(5)**

This item inserts a new paragraph, 13(5A), which allows the Minister to appoint board directors to Wine Australia for the period between 1 May 2014 and 30 June 2014. The terms of Wine Australia board members expire on 30 April 2014. This item allows for the Minister to reappoint these members for the final two months that Wine Australia is in operation, without reference to a costly and time consuming selection committee exercise.

Item 71 repeals paragraph 13(5A) from 1 July 2014 as part of the amendments that create the Authority.

#### **Item 9 Subsection 15(2)**

This item amends subsection 15(2) to clarify that once the Authority Selection Committee is established, if the Minister needs to appoint a deputy chair of Wine Australia he must consult with the Chair of Wine Australia and the presiding member of the Wine Australia selection committee.

Item 71 repeals subsection 15(2) from 1 July 2014 as part of the amendments that create the Authority.

#### **Item 10 After Part III**

This item inserts a new *Part IV – Australian Grape and Wine Authority Selection Committee* (sections 27B to 27ZC) that sets up a selection committee (Authority Selection Committee) that can nominate to the Minister recommendations for the board of the Authority. The requirements of operation are based on those of the Wine Australia Selection Committee. Part IV will require reviewing if the Rural Research and Development Legislation Amendment Bill 2013 is implemented before the Merger Bills are passed by Parliament.

Section 27E provides that the number of nominations specified by the Minister can exceed the number of vacancies.

The Minister can appoint the Authority Selection Committee and ask it to consider applications and make nominations for appointment of a board for the Authority. Schedule 2, Part 2, of the Main Bill provides for the Minister to engage consultants to assist with the establishment of the Authority and provides that only persons appointed as a director of the Authority have the qualifications and experience to be one of these consultants.

#### **Item 11 At the end of section 29TA**

This item inserts a new section 29TA(4) that provides that the Wine Australia selection committee does not have to prepare an annual report for the 2013-14 year after 30 June 2014.

Item 73 repeals section 29TA(4) from 1 July 2014 as part of the amendments that create the Authority.

#### **Item 12 At the end of Part IVA**

This item inserts a new section 29TB that requires the Wine Australia selection committee to prepare its final report for 2013-14 activities, if any, after 30 April 2014.

Item 73 repeals section 29TB from 1 July 2014 as part of the amendments that create the Authority.

#### **Item 13 Paragraph 35(1)(aa)**

This item amends paragraph 35(1)(aa) to provide that the “Selection Committee” is to be the “Corporation Selection Committee” thus avoiding confusion with the Authority Selection Committee.

Item 126 amends paragraph 35(1)(aa) to provide that it refers to the Authority Selection Committee.

## **Part 2—Amendments commencing on 1 July 2014**

This part provides the amendments to the *Freedom of Information Act 1982* and the *Wine Australia Corporation Act 1980* that begin on 1 July 2014. The intent of this Part is to establish the Authority and provide the governance framework for its operation.

#### **Item 14 Part III of Schedule 2**

This item amends Part III of Schedule 2 of the *Freedom of Information Act 1982* to change a reference from the Wine Australia Act to the Act.

#### **Item 15 The whole of the Regulations**

This item repeals the Grape and Wine Research and Development Corporation Regulations 1991. The regulations established GWRDC and are no longer needed as the Authority replaces the GWRDC. By abolishing the regulations in the Main Bill the government provides transparency of the changes to legislation that create the Authority.

#### **Item 16 Title**

This item renames the Wine Australia Act as the Act. The new name better reflects the activities of the Authority and is an indication to the grape industry and wine industry that the Authority is not a continuation of Wine Australia but is a new body.

#### **Item 17 Section 1**

This item changes the short title of the Act to the *Australian Grape and Wine Authority Act 2013*.

#### **Item 18 Section 3**

This item replaces the Objects section 3(1) and adds a new Objects section that better reflects the activities of the Authority, including the support of grape or wine R&D activities.

## **Items 19 to 42**

These items provide for terms in the Act to be defined. In particular they insert definitions that reflect the Authority's role as a funder of grape and wine R&D.

The definition of R&D is as in the PIERD Act with amendments to reflect the industry specific nature of the Act.

Definitions of grape industry and wine industry are necessary because of the different levies that fund the Authority. Grape growers and winemakers pay different levies.

All references to grape industry are to grapes grown for the purpose of processing, usually into wine.

### **Item 43 Subsection 4(3) (note)**

This item amends a Note to Subsection 4 that replaces references to Chairperson and Deputy Chairperson with references to Chair and Deputy Chair. This amendment is repeated throughout the Bill and brings the Main Bill into line with contemporary drafting conventions.

### **Item 44 Section 4B**

This item repeals Section 4B which related to the application of the *Criminal Code* to offences in the Wine Australia Act. The *Criminal Code* now applies automatically to all offences.

### **Item 45 At the end of Part I**

This item inserts a new section, 5E, which provides a guide to what is considered to be a vacancy on the Board of the Authority.

### **Item 46 Part II (heading)**

This item amends the heading of Part II to refer to the Authority.

### **Item 47 Sections 6 and 7**

This item replaces sections 6 and 7, and inserts a new section, 7A, that establishes the Authority and provides its functions and constitutional limits.

The functions are amended to provide for the Authority to undertake the functions of GWRDC and Wine Australia.

In particular new functions provide for the Authority to coordinate and fund research and development.

An amendment has been made to the text of the existing functions of Wine Australia to remove the word 'encourage' from the function: 'to encourage and promote the consumption and sale of grape products in Australia and overseas.' This better clarifies the intention of the Authority's purpose.

Section 7A provides that the Authority may only perform the Authority's functions within constitutional limits. It ensures the legislation would continue to have effect if the powers and functions of the Authority were confined to those constitutional powers.

#### **Item 48 Section 8 (heading)**

This item removes a reference in the heading of Section 8 to Wine Australia and replaces it with a reference to the Authority.

#### **Items 49 to 51**

These items remove references to Wine Australia and replace them with references to the Authority.

#### **Item 52 Paragraph 8(2)(d)**

This item amends paragraph 8(2)(d) to provide that the Authority may engage in activities that support it in developing the markets for Australian grape products. This change implements a change in the functions made by item 47 above.

#### **Item 53 Paragraphs 8(2)(e) and (f)**

This item removes references to Wine Australia and replaces them with references to the Authority.

#### **Item 54 Paragraph 8(2)(g)**

This item amends paragraph 8(2)(g) to allow for the Authority to charge for the provisions of goods as well as services. This implements a PIERD Act power that was available to GWRDC.

#### **Item 55 Paragraphs 8(2)(g), (ga) and (h)**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

#### **Item 56 At the end of subsection 8(2)**

This item inserts new powers 8(2)(i), (j), (k), (l), (m) and (n). These are powers relating to the R&D function of the Authority and replicate powers in the PIERD Act.

#### **Items 57 to 59**

These items remove references to Wine Australia and replace them with references to the Authority.

#### **Item 60 Subsection 8(2B)**

This item removes a reference to Chairperson and replaces it with a reference to Chair.

#### **Item 61 Subsection 8(2B)**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

#### **Item 62 Subsection 8(2F)**

This item amends section 8(2F) to replace references to the Wine Australia Act with references to the Act.

#### **Item 63 Subsection 8(2G)**

This item removes a reference to Chairperson and replaces it with a reference to Chair.

**Item 64 Subsection 8(3)**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 65 Section 10**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 66 After section 10**

This item inserts new sections 10A, 10B, 10C and 10D that ensures the Authority can carry out its R&D functions by entering into agreements for carrying out R&D activities, providing grants and consulting, including meeting travel expenses. These sections replicate provisions in the PIERD Act.

**Item 67 Subsections 11(1) and (1A)**

This item removes references to Wine Australia and replaces them with references to the Authority.

**Item 68 Subsection 11(2)**

This item amends subsection 11(2) to replace a reference to Wine Australia with a reference to the Authority.

**Item 69 At the end of Part II**

This item inserts a new section 11A, that provides the Authority does not have the rights and privileges of the Crown.

**Item 70 Part III (heading)**

This item repeals the heading of Part III.

**Item 71 Sections 12 to 22**

This item repeals the constitution and meeting rules of Wine Australia and introduces new sections 12 to 26D that provide a new constitution and rules for the Authority.

The constitution and rules are similar to those of Wine Australia. The Authority is managed by a skills-based board consisting of a Chair and between 5 and 7 directors with the Chief Executive not being a director of the board.

The Minister retains the power to appoint the Chair, but must first consult with the board and industry. The board, rather than the Minister, appoints the Deputy Chair.

**Item 72 Section 27ZD**

This item repeals section 27ZD.

**Item 73 Part IVA**

This item repeals Part IVA which established the Wine Australia Corporation Selection Committee. The Selection Committee is replaced by an Authority Selection Committee established by Item 9, Schedule 1 of the Main Bill.

**Item 74 Part IVB (heading)**

This item amends the heading of Part IVB to reflect that the Act now covers the grape industry and the wine industry.

**Item 75 Subsection 29U(1) (definition of *old Charge Act*)**

This item amends section 29U(1) to remove a redundant definition of “old Charge Act”.

**Item 76 Subsection 29U(1) (definition of *old Levy Act*)**

This item amends section 29U(1) to remove a redundant definition of “old Levy Act”.

**Item 77 Subsection 29U(2)**

This item amends section 29U(2) to replace a reference to the old Levy Act with a reference to the wine grapes levy.

**Item 78 Subsection 29V(1)**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 79 Paragraphs 29V(1)(aa), (ab), (a) and (b)**

This item repeals paragraphs 29V(1)(aa), (ab), (a) and (b) and replaces them with a new 29V1(a) and (b). The amendment removes references to repealed levies but does not otherwise change the meaning of the section.

**Item 80 Subsection 29V(2)**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 81 Section 29W**

This item provides a new section 29W that repeals the requirement that the Authority hold an annual general meeting every year. The new section provides that the Authority can choose to convene an annual general meeting and requires that it call one if requested to do so by:

- one of the representative organisations; or
- a group of at least 10 payers of either of the levies that fund the Authority.

**Item 82 Paragraph 29X(a)**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 83 At the end of paragraph 29X(a)**

This item inserts the word “and” at the end of paragraph 29X(a). This provides a link to paragraph 29X(b).

**Item 84 Paragraphs 29X(b) and (c)**

This item replaces paragraphs 29X(b) and (c) with new paragraphs 29X(b) and (c) that clarifies the requirements of a Chair’s address to an annual general meeting.

### **Items 85 to 87**

These items remove references to Wine Australia and replace them with references to the Authority.

### **Items 88 and 89**

These items remove references to Chairperson and replace them with references to Chair.

### **Item 90 Subsection 29Y(3)**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

### **Item 91 Subsection 29Y(3)**

This item amends section 29Y(3) to include both the grape industry and the wine industry.

### **Item 92 Section 29ZA**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

### **Item 93 Part V (at the end of the heading)**

This item amends the heading of Part V to reflect that section 30 of the Act is being amended to include the engagement of consultants.

### **Item 94 Section 30**

This item removes references to Wine Australia and replaces them with references to the Authority.

### **Item 95 At the end of Part V**

This item inserts a new section 30A that provides for the Authority to engage consultants. This section incorporates section 88 of the PIERD Act which provides for R&D corporations to engage consultants.

### **Item 96 Part VA (heading)**

This item amends the heading of Part VA to remove a reference to Wine Australia and replaces it with a reference to the Authority.

### **Item 97 Sections 31 to 31E**

This item repeals sections 31 to 31E which provided for Wine Australia to develop a corporate plan and replaces them with a new section 31. Section 31 requires the Authority to prepare corporate plans. Corporate plans are to be developed following consultation with industry representative organisations.

The Authority must prepare an initial corporate plan by 30 September 2014 and provide it to the Minister.

It must draft a 5-year corporate plan that addresses the objectives of the Authority and submit it to the Minister for approval by 1 May 2015. The corporate plan is required to include a specific statement of grape and wine R&D objectives and the strategies to achieve those objectives.

Ministerial approval of the corporate plan is not a legislative instrument. This is because it is not legislative in character and therefore not within the meaning of section 5 of the *Legislative Instruments Act 2003*.

**Item 98 Section 31F (heading)**

This item amends the heading of section 31F to remove a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 99 Subsection 31F(1)**

This item removes references to Wine Australia and replaces them with references to the Authority.

**Item 100 After subsection 31F(1)**

This item inserts a new subsection 31F(1) to require the Authority develop its first annual operational plan within the first three months of operation, that is, by 30 September 2014.

**Item 101 Sections 31G to 31J**

This item repeals sections 31G to 31J which required annual operational plans to be agreed by the Minister. This amendment removes an unnecessary administrative requirement, and allows the Minister to focus on the strategic direction of the Authority, rather than on the day-to-day management of the Authority.

**Item 102 Section 31K (heading)**

This item removes references to Wine Australia and replaces them with references to the Authority.

**Item 103 Subsections 31K(1) and (2)**

This item removes references to Wine Australia and replaces them with references to the Authority.

**Item 104 Subsection 31K(3)**

This item removes a reference to Chairperson and replaces it with a reference to Chair.

**Item 105 Subsections 31K(4), (5), (6) and (7)**

This item removes references to Wine Australia and replaces them with references to the Authority.

**Item 106 Paragraph 31K(7)(b)**

This item removes a reference to Chairperson and replaces it with a reference to Chair.

**Item 107 Section 31L**

This item repeals section 31L.

**Items 108 Section 32 (heading)**

This item amends the heading of section 32 to remove a reference to Wine Australia and replaces it with a reference to the Authority.

### **Item 109 Section 32**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

### **Item 110 Paragraphs 32(aa) and (ab)**

This item amends paragraphs 32(aa) and (ab) to provide for the Commonwealth to pay to the Authority the amount collected by the general component of the wine grapes levy.

### **Item 111 Paragraphs 32(a), (b), (c) and (d)**

This item replaces paragraphs 32(a), (b), (c) and (d) with new paragraphs 32(ae), (af), (ag), (ah) and (ai). The new paragraphs require the Commonwealth to pay the Authority R&D funds collected by the research component of the wine grapes levy and the grapes research levy that were previously paid to the GWRDC.

The item also provides that from 1 July 2014 onwards all levy, penalty and matching payments are made to the Authority. All levies and late payment penalties that the department has received but not paid to GWRDC or Wine Australia by or on 30 June 2014 would all be paid to the Authority from 1 July 2014.

### **Item 112 After section 32**

This item inserts new sections 32A and 32B.

Section 32A sets the overall limit on matching payments as the sum of the grapes research levy and the research component of the wine grapes levy, less any refunds, that have been paid to the Authority or GWRDC.

Section 32B sets the overall limits on the appropriation for the Commonwealth to make R&D payments and matching payments to the Authority. In terms of the matching payments, the section also sets annual limits on what can be paid to Authority and provides that the amount retained by the Authority in any year does not exceed the annual limit. Any amounts that exceed the annual limit must be repaid to the Commonwealth.

The annual limit on matching payments to the Authority in a year is the lesser of the three limits (0.5 per cent of the gross value of production (GVP) or the levy paid to the Authority/GWRDC or half R&D expenditure).

The Minister will determine the amount of the GVP in a financial year before the end of 31 October following that financial year.

A determination made under this section is not a legislative instrument within the meaning of section 5 of the *Legislative Instruments Act 2003*. The reason for this is that such a determination is a statement of what the Minister reasonably believes to be a pre-existing fact (the value of production), rather than determining a law.

Rules may be made by the Minister, to prescribe the manner in which the Minister is to determine the GVP in a financial year.

### **Item 113 Section 33 (heading)**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 114 Subsections 33(1) and (2)**

This item repeals sections 33(1) and (2). These sections are no longer necessary as no payments can be made to the Authority under the repealed *Wine Grapes Levy Act 1979*.

**Items 115 Subsection 33(3)**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

**Items 116 Paragraph 33(4)(b)**

This item clarifies that an overpayment referred to in the paragraph relates to the wine grapes levy.

**Item 117 Subsection 33(4)**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 118 At the end of section 33**

This item inserts new sections 33(5) and 33(6) that require the Authority to pay to the Commonwealth an amount equal to payments or overpayments of refunds made by the Commonwealth under section 18 of the *Primary Industries Levies and Charges Collection Act 1991*.

**Item 119 Section 34**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 120 Section 34A (heading)**

This item removes a reference in the heading of Section 34A to Wine Australia and replaces it with a reference to the Authority.

**Items 121 and 122**

These items remove references to Wine Australia and replace them with references to the Authority.

**Item 123 Section 35 (heading)**

This item removes a reference in the heading of Section 35 to Wine Australia and replaces it with a reference to the Authority.

**Item 124 Section 35**

This item removes references to Wine Australia and replaces them with references to the Authority.

**Item 125 Paragraph 35(1)(a)**

This item amends paragraph 35(1)(a) to broaden its scope and link it with paragraph 35(1)(aa).

**Item 126 Paragraph 35(1)(aa)**

This item amends paragraph 35(1)(aa) to change a reference from Wine Australia Selection Committee to the Authority Selection Committee, as after 30 June 2014, the Wine Australia Selection Committee will no longer exist to incur costs.

**Item 127 At the end of paragraph 35(1)(aa)**

This item amends paragraph 35(1)(aa) to link it to paragraph 35(1)(ab).

**Item 128 Paragraph 35(1)(ab)**

This item repeals paragraph 35(1)(ab) and replaces it with new paragraphs 35(1)(ab), (ac) and (ad). The new paragraphs provide for the Authority to make payments for funding R&D activities and to return to the Commonwealth any excess payments of matching funds and costs the Commonwealth incurs in collecting levies.

**Items 129 Paragraph 35(1)(c)**

This item removes references to Wine Australia and replaces them with references to the Authority.

**Item 130 At the end of paragraph 35(1)(c)**

This item amends paragraph 35(1)(a) to broaden its scope.

**Items 131 After subsection 35(1)**

This item inserts a new paragraph 35(1A) that limits expenditure of the research component of the grape research levy and the wine grape levy to R&D and necessary payments to the Commonwealth. This allows the Authority to decide exact allocations but requires the levy collected be spent on R&D activities, including the necessary administration costs of the Authority.

**Items 132 Subsection 35(2)**

This item ensures the Authority can invest surplus money.

**Items 133 Subsection 35(2)**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 134 After section 35**

This item inserts a new section 36 that requires the Authority to pay the Commonwealth amounts equal to the costs the Commonwealth incurs in collecting the R&D levies.

**Item 135 Section 38**

This item inserts the number (1) before the section to provide for the inclusion of new sections 38(2) and (3).

**Item 136 Section 38**

This item removes references to members and replaces them with references to directors.

**Item 137 Section 38**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 138 At the end of section 38**

This item inserts new sections 38(2) and (3) that provide requirements for material that must be included in the Authority's annual report. These requirements are those in Article 28 of the PIERD Act adapted for a specific Authority rather than the R&D corporations.

**Item 139 After section 38**

This item inserts new section 38A that requires the Authority to provide a copy of the annual report and for the Chair of the Authority to attend a meeting of each of the representative organisations to present the report and respond to questions about it. This requirement is an accountability mechanism from the PIERD Act.

**Item 140 Section 39**

This item removes references to Wine Australia and replaces them with references to the Authority.

**Item 141 Section 39ZAA (heading)**

This item amends the heading of section 39ZAA to remove a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 142 Subsection 39ZAA(1)**

This item removes references to Wine Australia and replaces them with references to the Authority.

**Item 143 Section 39ZAC (heading)**

This item amends the heading of section 39ZAC to remove a reference to Wine Australia and replaces it with a reference to the Authority.

**Items 144 to 147**

These items remove references to Wine Australia and replace them with references to the Authority.

**Item 148 Section 39ZJ (heading)**

This item amends the heading of section 39ZJ to remove a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 149 Section 39ZJ**

This item removes references to Wine Australia and replaces them with references to the Authority.

**Item 150 Section 39ZK (heading)**

This item amends the heading of section 39ZK to remove a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 151 Paragraph 39ZK(a)**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 152 Paragraph 39ZK(b)**

This item removes references to members of Wine Australia and replaces them with references to directors of the Authority.

**Item 153 Paragraph 39ZK(c)**

This item removes a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 154 Section 39ZL (heading)**

This item amends the heading of section 39ZL to remove a reference to Wine Australia and replaces it with a reference to the Authority.

**Item 155 Paragraphs 39ZL(1)(c), (d) and (e)**

This item repeals paragraphs 39ZL(1)(c), (d) and (e) as they refer to repealed Acts that are not relevant to the Authority. It provides a new paragraph 39ZL(1)(c) that includes the grape research levy as a levy that the Authority may assist in calculating and collecting.

**Items 156 and 157**

These items remove references to Wine Australia and replace them with references to the Authority.

**Item 158 Subsection 40Y(2)**

This item amends section 40Y(2) to replace references to the Wine Australia Act with references to the Act.

**Item 159 Subsection 40Z(2)**

This item removes a reference to Chairperson of the Corporation and replaces it with a reference to Chair of the Authority.

**Item 160 Section 40ZAC**

This item removes references to Wine Australia and replaces them with references to the Authority.

**Item 161 Subsection 40ZAI(2)**

This item removes a reference to Chairperson of the Corporation and replaces it with a reference to Chair of the Authority.

**Item 162 Section 40ZAJ**

This item removes references to Wine Australia and replaces them with references to the Authority.

**Item 163 Subsection 40ZAP(2)**

This item removes a reference to Chairperson of the Corporation and replaces it with a reference to Chair of the Authority.

### **Item 164 to 166**

These items remove references to Wine Australia and replace them with references to the Authority.

### **Item 167 Section 41A (heading)**

This item changes the heading of section 41A to replace a reference to the Corporation with a reference to the Geographical Indications Committee.

### **Item 168 Paragraph 41A(1)(a)**

This item repeals section 41A(1)(a) so the section applies to members of the Geographical Indications Committee not the Authority. Remuneration of directors of the Authority is covered by new section 18.

### **Item 169 Paragraph 41A(1)(c)**

This item removes references to members of Wine Australia and replaces them with references to directors of the Authority.

### **Item 170 and 171**

These items remove references to Wine Australia and replace them with references to the Authority.

### **Item 172 Subsection 43(1)**

This item amends section 43(1) to provide that delegations are made under seal not under a common seal.

### **Items 173 to 175**

These items remove references to Wine Australia and replace them with references to the Authority.

### **Item 176 Part VIII**

This item repeals Part VIII of the Wine Australia Act as this part is not relevant once Wine Australia is wound up.

### **Items 177 to 184**

These items amend the Schedule of the Act so that it refers to the Chair and the Authority rather than the chairperson and Corporation.

### **Item 185 Clause 12 of the Schedule**

This item amends the Schedule of the Act so that the requirements for the Geographical Indications Committee annual report are those in the CAC Act not the *Audit Act 1901*.

## **Schedule 2 – Transitional Provisions**

The objects of the transitional provisions in Schedule 2 are to provide for the seamless transition of the GWRDC and Wine Australia to the Authority, including that the operations, assets, liabilities and staffing conditions of the GWRDC and Wine Australia are transferred to the Authority.

### **Part 1–Introduction**

#### **Item 1 Definitions**

This item sets out the definitions of words used in Schedule 2 to the Main Bill. In particular the term transition time is defined as the commencement of Part 2 of Schedule 1, which is set by Section 2 of the Main Bill as 1 July 2014.

### **Part 2–Preparation for the establishment of the Grape and Wine Authority**

#### **Item 2 Consultants to assist with preparations**

This item provides that, following Royal Assent, the Minister may engage consultants to assist with preparations for establishing the Authority, including the process to appoint a chief executive for the Authority.

Part 1 of Schedule 1 allows the Minister to identify who will be the directors of the first board before 1 July 2014 and appoint them to be the board from 1 July 2014.

This item gives the Minister a clear power to appoint the future board directors as consultants and ask them to begin planning for the commencement of the Authority on 1 July 2014, including starting the process to appoint a chief executive. This item also provides the option for additional, qualified consultants to be engaged by the Minister, (subject to request or agreement by the future directors) for the purposes of assisting with engaging a chief executive for the Authority.

Before 1 July 2014 the future board directors, in their role as consultants, cannot make decisions that would bind the Authority. However, it can be expected that any recommendations they make would be considered for ratification by the board at its first meeting.

The costs of the consultants will be met by the Commonwealth through the Department of Agriculture.

#### **Item 3 Reimbursement of consultant expenses**

This item ensures that the merger of the GWRDC and Wine Australia will have no net financial impacts to the Department of Agriculture. The costs of the consultants and costs they incur will be refunded by the Authority after 1 July 2013.

As the consultants are the future board directors acting in the interests of the Authority it is reasonable for the Authority to reimburse the Commonwealth for the costs of the consultants.

#### **Items 4 and 5**

This item provides a legislative basis for Wine Australia and GWRDC to assist with the preparations for the establishment of the Authority.

## **Items 6 and 7**

These items provide that Wine Australia and GWRDC will each pay 50 per cent of the costs of establishing the Authority Selection Committee and any work it then undertakes, regardless of the total of funds possessed by each before transition.

### **Item 8 Appointment process for the first directors of the Australian Grape and Wine Authority**

This item provides that the Minister may appoint the first board of the Authority without reference to a selection committee but must consult industry representative organisations.

### **Item 9 Appointments of members of the Australian Grape and Wine Authority Selection Committee**

This item provides that if the Minister appoints the first board of the Authority without reference to a selection committee then the Minister is not required to appoint an Authority Selection Committee before 1 July 2014.

### **Item 10 Number of directors of the Australian Grape and Wine Authority during its first 12 months of operation**

This item provides that if the Minister appoints the first board of the Authority without reference to a selection committee then the board will consist of a Chair and seven directors.

### **Item 11 Initial appointments of directors of the Australian Grape and Wine Authority must end before 1 July 2015**

This item provides that if the Minister appoints the first board of the Authority without reference to a selection committee then the term of appointment will expire on 1 July 2015.

### **Item 12 Continuity of initial appointments of directors of the Australian Grape and Wine Authority**

This item provides that if the Minister appoints the first board of the Authority without reference to a selection committee then the Minister will have regard to the advantages of having the board of the Authority having continuity with the boards of Wine Australia and GWRDC.

## **Part 3—Transfer of assets and liabilities**

### **Item 13 Vesting of assets of the Wine Australia Corporation or the Grape and Wine Research and Development Corporation**

Item 7 provides that the assets of the GWRDC and Wine Australia, immediately before 1 July 2014, cease to be assets of the two statutory authorities and become assets of the Authority.

The effect of item 7 is that on 1 July 2014, the assets of the GWRDC and Wine Australia immediately before 1 July 2014 would become the assets of the Authority without the need for any conveyance, transfer or assignment. The Authority would become successor in law in relation to those assets previously held by the GWRDC and Wine Australia.

#### **Item 14 Vesting of liabilities of the Wine Australia Corporation or the Grape and Wine Research and Development Corporation**

Item 8 provides that the liabilities of the GWRDC and Wine Australia immediately before 1 July 2014 cease to be liabilities of the two wine statutory authorities and becomes liabilities of the Authority.

The effect of item 8 is that on 1 July 2014, the liabilities of the GWRDC and Wine Australia immediately before 1 July 2014 would become the liabilities of the new Authority without the need for any conveyance, transfer or assignment. The Authority would become successor in law in relation to those liabilities previously held by the GWRDC and Wine Australia.

#### **Item 15 Transfers of land may be registered**

Item 9 enables land that vests in the Authority under Part 3 of Schedule 2 to be registered.

The item provides that a certificate made under the item is not a legislative instrument. This is because it is not legislative in character and therefore not within the meaning of item 5 of the *Legislative Instruments Act 2003*. Item 9(3) confirms this and is included to assist readers.

#### **Item 16 Certificates relating to vesting of assets other than land**

This item provides for assets other than land which are transferred to the Authority under Part 3 of Schedule 2 to be registered.

The item provides that a certificate made under the item is not a legislative instrument. This is because it is not legislative in character and therefore not within the meaning of item 5 of the *Legislative Instruments Act 2003*. Item 10(3) confirms this and is included to assist readers.

### **Part 4—Transfer of other matters**

#### **Item 17 Transitional—acts of the Wine Australia Corporation or the Grape and Wine Research and Development Corporation to be attributed to the Australian Grape and Wine Authority**

This item provides that anything done by, or in relation to, the GWRDC or Wine Australia before 1 July 2014 has effect from 1 July 2014 as if it had been done by, or in relation to, the Authority.

#### **Item 18 Substitution of the Australian Grape and Wine Authority as a party to certain pending proceedings**

This item provides that in any proceedings to which the GWRDC or Wine Australia were a party in any court or tribunal immediately before 1 July 2014, the Authority is substituted for the GWRDC and Wine Australia, from 1 July 2014, as a party to the proceedings.

This item ensures that any existing litigation is not affected by the termination of the GWRDC and Wine Australia.

#### **Item 19 Transitional—transfer of records to the Australian Grape and Wine Authority**

This item provides for any records or documents that were in possession of the GWRDC and Wine Australia immediately before 1 July 2014 to be transferred to the Authority from 1 July 2014.

## **Item 20 Transitional—transfer of Ombudsman investigations**

This item provides that if, before 1 July 2014, a complaint was made to, or an investigation was being carried out by, the Ombudsman under the *Ombudsman Act 1976* (the Ombudsman Act) in relation to an action taken by the GWRDC or Wine Australia; and immediately before 1 July 2014, the Ombudsman had not finally disposed with the matter in accordance with the Ombudsman Act, the Ombudsman Act applies from 1 July 2014 as if that action had been taken by the Authority.

This provision is designed to ensure that existing matters before the Ombudsman are not affected by the cessation of the GWRDC and Wine Australia.

## **Item 21 References in certain instruments to the Wine Australia Corporation or the Grape and Wine Research and Development Corporation**

This item provides for references to the GWRDC and Wine Australia in certain instruments (e.g. contracts) to be taken as references to the Authority at 1 July 2014. The purpose is to ensure that existing instruments (e.g. contracts) continue to operate as intended after the transition. The instruments to which the item applies are: instruments made by GWRDC or Wine Australia; instruments to which GWRDC or Wine Australia was a party; instruments that were given to, or in favour of, GWRDC or Wine Australia; instruments under which any right or liability accrues or may accrue to GWRDC or Wine Australia; or any other instruments which refer to GWRDC or Wine Australia.

The item defines the term 'instrument'. Some legal instruments are exempted from the definition of an instrument because it is appropriate for references to either of the two statutory authorities in those instruments to stand.

## **Item 22 Research and development agreements**

This item provides that R&D agreements entered into by the GWRDC before 1 July 2014 will continue to have effect from 1 July 2014.

## **Item 23 Transfer of appropriated money**

This item provides that for the purposes of the operation of an Appropriation Act (an Act appropriating money for expenditure out of the Consolidated Revenue Fund) from 1 July 2014, references to the GWRDC or Wine Australia are to be read as references to the Authority.

# **Part 5—Reporting obligations**

## **Item 24 Final annual report of the Wine Australia Corporation**

This item provides that the Authority must prepare the final annual report for Wine Australia for the final reporting period ending before 1 July 2014. The report must be in accordance with Schedule 1 of the CAC Act and section 38 of the Wine Australia Act as in force immediately before 1 July 2014.

The item also sets out how Schedule 1 of the CAC Act and the Finance Minister's Orders referred to in that Schedule, which together specify how the report must be prepared; apply to the report required by this section.

The items provide that the deadline for the submission of this report to the Minister is the 15th day of the fourth month after the end of the final reporting period (15 October 2014),

unless the Minister grants an extension of time due to special circumstances, and that the Minister must table the report in each House of the Parliament as soon as practicable.

The ‘final reporting period’ as used in this section is the financial year ending 30 June 2014.

### **Item 25 Final annual report of the Grape and Wine Research and Development Corporation**

This item provides that the Authority must prepare the final annual report for GWRDC for the final reporting period ending 30 June 2014. The report must be in accordance with Schedule 1 of the CAC Act and section 88 of the PIERD Act as in force immediately before 1 July 2014.

The item also sets out how Schedule 1 of the CAC Act and the Finance Minister’s Orders referred to in that Schedule, which together specify how the report must be prepared, apply to the report required by this section.

The item provides that the deadline for the submission of this report to the Minister is the 15th day of the fourth month after the end of the final reporting period (15 October 2014), unless the Minister grants an extension of time due to special circumstances, and that the Minister must table the report in each House of the Parliament as soon as practicable.

The ‘final reporting period’ as used in this section is the financial year ending 30 June 2014.

### **Item 26 Contravention of final annual reporting requirement**

This item provides that a director of the Authority who caused a contravention of the final annual reporting requirement, or failed to take reasonable steps to comply with the requirement, is subject to the penalty provision in item 1 of Schedule 2 of the CAC Act.

The item has the effect of modifying subclause 6(1) of Schedule 2 of the CAC Act to restrict any application by the Finance Minister for a compensation order.

The item provides that if a contravention of a final annual reporting requirement consists of an omission from the financial statements, it is a defence if it can be demonstrated that the information omitted was immaterial and did not affect the giving of a true and fair view of the matters required by the Finance Minister’s Orders.

The ‘final annual reporting requirement’ is the financial year ending 30 June 2014.

## **Part 6—Employees**

### **Item 27 Terms and conditions of employment**

This item sets out the terms and conditions of employment for employees transferring from the GWRDC and Wine Australia to the Authority. The purpose is to ensure that existing agreements will continue to apply to transferring employees.

Transferring employees are people employed by Wine Australia and GWRDC on 30 June 2014.

On 1 July 2014 transferring employees cease to be employees of GWRDC or Wine Australia and become employees of the Authority.

A transferring employee of the GWRDC or Wine Australia will be engaged on the same terms and conditions that applied immediately before 1 July 2014 by the Authority. After 1 July 2014, the terms and conditions of Authority employees that transferred from the GWRDC or Wine Australia may be varied in accordance with those terms and conditions or by or under a law, award, determination or agreement.

A transferring employee is not entitled to receive any payment or other benefit due to transferring from the GWRDC or Wine Australia to the Authority.

#### **Item 28 Accrued entitlements**

This item ensures that the entitlements of employees transferring from the GWRDC or Wine Australia to the Authority continue in existence and are not affected by the transfer. The item provides for such people to retain accrued entitlements to benefits which applied to their employment by the GWRDC or Wine Australia immediately before 1 July 2014.

The item provides that a person's service as an employee of either of the two statutory authorities is taken, for all purposes, to have been continuous with his or her service as an employee of the Authority.

#### **Item 29 *Safety, Rehabilitation and Compensation Act 1988*—rehabilitation provisions**

This item provides that after 1 July 2014 the Australian Grape and Wine Authority is to be taken to be the relevant employer of an employee who, before 1 July 2014, suffers or suffered an injury resulting in an incapacity for work or an impairment for the purposes of the *Safety, Rehabilitation and Compensation Act 1988*. The item ensures that the Authority is recognised as the relevant employer of the statutory authority employees who transfer to the new authority in respect of an injury or incapacity sustained before 1 July 2014.

### **Part 7—Finance**

#### **Item 30 Payments to the Authority**

This item provides that the Commonwealth is to pay to the Authority any levy amounts it received before 1 July 2014 and did not pay to GWRDC or Wine Australia before 1 July 2014.

#### **Item 31 Payments by the Authority to the Commonwealth**

This item provides that the Authority will pay to the Commonwealth any refunds that were not recovered by the Commonwealth from GWRDC or Wine Australia before 1 July 2014.

#### **Item 32 Commonwealth to be paid levy expenses**

This item provides that the Authority will reimburse the Commonwealth for any expenses the Commonwealth incurred in the collection of levies before 1 July 2014 that were not reimbursed by GWRDC or Wine Australia.

#### **Item 33 Application of money transferred from Grape and Wine Research and Development Corporation etc.**

This item provides that the money held by the GWRDC on 1 July 2014 can only be used for the purposes of R&D and related purposes as set out in subsection 35(1A) of the Act.

### **Item 34 Funding of grape or wine research and development activities before first annual operational plan is developed**

This item provides that the Authority can fund R&D activities before its first annual operational plan is developed.

## **Part 8—Annual meetings and accountability**

### **Item 35 Annual general meeting in the first financial year**

This item provides rules for the first Authority's first annual general meeting. The rules provide for attendees at the meeting to ask about activities of Wine Australia and GWRDC.

### **Item 36 Initial accountability to representative organisations to relate to the final annual report of the Grape and Wine Research and Development Corporation**

This item provides rules for the Chair must provides the representative organisations with a copy of the annual report and make arrangements to attend a meeting to talk about the activities of the GWRDC. This continues a PIERD Act requirement.

## **Part 9—Miscellaneous**

### **Item 37 Exemption from stamp duty and other State or Territory taxes**

This item ensures that State and Territory taxes such as stamp duty do not apply to the operations of Schedule 2 to the Main Bill. For example, no stamp duty will be payable on the transfer of land under Schedule 2.

This item provides that no stamp duty or other tax is payable under a law of a State or Territory in respect of an exempt matter or anything connected with an exempt matter. An 'exempt matter' is the vesting of an asset or liability under Schedule 2 or any other operation of Schedule 2.

The Minister may certify in writing that a specified matter is an exempt matter or that a specified thing is connected with an exempt matter. If the Minister does so, the certificate is prima facie evidence in all courts and for all purposes (other than in criminal proceedings) of matters stated in the certificate.

### **Item 38 Constitutional safety net**

This item ensures that to the extent that the operation of Schedule 2 would result in an acquisition of property from a person otherwise than on just terms contrary to s 51(xxxi) of the Constitution, the Commonwealth will be liable to pay a reasonable amount of compensation to the person.

The item provides that where the Commonwealth and the person cannot agree on the amount of compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as is determined by the court.

### **Item 39 Certificates taken to be authentic**

This item provides that a document which purports to be a certificate made or issued under a provision of Schedule 2 is taken to be such a certificate and to have been properly given, unless the contrary is established. This item is included to enable persons to assume that a

document purporting to be a certificate is a validly issued certificate under Schedule 2, unless there is evidence to the contrary.

**Item 40 Delegation by Minister**

This item enables the Minister to delegate, in writing, all or any of his or her powers and functions under Schedule 2 to the Secretary of the Department or an SES employee, or acting SES employee, in the Department. This item provides that in exercising power or functions under a delegation, the delegate must comply with any directions of the Minister.

**Item 41 Transitional rules**

The item provides that the Minister may make rules in relation to transitional matters arising out of amendments made by Schedule 1 of the Main Bill.

# **PRIMARY INDUSTRIES (CUSTOMS) CHARGES AMENDMENT (Australian Grape and Wine Authority) BILL 2013**

## **NOTES ON CLAUSES**

### **Section 1: Short title**

This section provides for the Act to be called the *Primary Industries (Customs) Charges Amendment (Australian Grape and Wine Authority) Act 2013*.

### **Section 2: Commencement**

This section provides for section 1-3 of the Primary Industries (Customs) Charges Amendment (Australian Grape and Wine Authority) Act to come into effect the day it receives Royal Assent.

The section also provides for Schedule 1 to come into effect at the same time as Part 2 of Schedule 1 of the Grape and Wine Legislation Amendment (Australian Grape and Wine Authority) Bill 2013. Part 2 of Schedule 1 will come into effect on 1 July 2014, the date that the Authority will commence operations.

### **Section 3: Schedules**

Subclause 3(1) provides that each Act, and each set of regulations, that is specified in Schedule 1 is amended or repealed as set out in the applicable item in the Schedule. It also provides that any other item in a Schedule has effect according to its terms, which relates to provisions such as application provisions.

## **Schedule 1—Amendments**

Schedule 1 replaces references in the *Primary Industries (Customs) Charges Act 1999* to the Wine Australia Corporation with references to the Grape and Wine Authority. The change will allow for levies collected to be paid to the new authority.

### **Item 1 Clause 1 of Schedule 13 (heading)**

This item amends the title ‘Definitions’ to singular (‘Definition’) as only one definition will exist.

### **Item 2 Clause 1 of Schedule 13 (definition of *Corporation*)**

This item repeals the definition of ‘Corporation.’

### **Item 3 Clause 5 of Schedule 13**

This item repeals Clause 5 of Schedule 13. This clause provided for Wine Australia, following an annual general meeting, to make recommendations to the Minister about the levy rate. The Australian Government has a process for consulting with industry about levy rates that provides for consultation, a vote of industry and an objections process. The item is repealed to provide that the process for changing wine industry levies is consistent with other industries.

# PRIMARY INDUSTRIES (EXCISE) LEVIES AMENDMENT (Australian Grape and Wine Authority) BILL 2013

## NOTES ON CLAUSES

### Section 1: Short title

This section provides for the Act to be called the *Primary Industries (Excise) Levies Amendment (Australian Grape and Wine Authority) Act 2013*.

### Section 2: Commencement

This section provides for sections 1 to 3 of the Primary Industries (Excise) Levies Amendment (Australian Grape and Wine Authority) Act to come into effect the day it receives Royal Assent.

The section also provides for Schedule 1 to come into effect at the same time as Part 2 of Schedule 1 of the Grape and Wine Legislation Amendment (Australian Grape and Wine Authority) Bill 2013. Part 2 of Schedule 1 will come into effect on 1 July 2014, the date that the Authority will commence operations.

### Section 3: Schedules

Subclause 3(1) provides that each Act, and each set of regulations, that is specified in Schedule 1 is amended or repealed as set out in the applicable item in the Schedule. It also provides that any other item in a Schedule has effect according to its terms, which relates to provisions such as application provisions.

Subclause 3(2) provides that the amendment of any regulation does not prevent the amendment regulation from being further amended or repealed by the Governor-General in Council.

## Schedule 1—Amendments

Schedule 1 replaces references in the *Primary Industries (Excise) Levies Act 1999* to Wine Australia with references to the Authority. The change will allow for levies collected to be paid to the Authority.

### Item 1 Clause 1 of Schedule 13 (definition of *representative organisation*)

This item substitutes the definition of ‘representative organisation’ with that used in section 5BA of the *Australian Grape and Wine Authority Act 2013*.

### Item 2 Clause 1 of Schedule 26 (definition of *Corporation*)

This item repeals the definition of ‘Corporation’ which was used in reference to Wine Australia.

### Item 3 Clause 1 of Schedule 26 (definition of *declared winemakers’ organisation*)

This item omits references to the *Wine Australia Corporation Act 1980* and substitutes ‘*Australian Grape and Wine Authority Act 2013*’ to reflect the amended Act that governs the Authority.

#### **Item 4 Subclauses 9(1), (2) and (3) of Schedule 26**

This item repeals subclauses 9(1), (2) and (3) of Schedule 26. These subclauses provided for Wine Australia, following an annual general meeting, to make recommendations to the Minister about the levy rate. The Australian Government has a process for consulting with industry about levy rates that provides for consultation, a vote of industry and an objections process. The item is repealed to provide that the process for changing wine industry levies is consistent with other industries.