

2013

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

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

No. , 2013

(Agriculture)

**A Bill for an Act relating to the establishment of the
Australian Grape and Wine Authority, and for
other purposes**

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1

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	
3. Schedule 1, Part 2	1 July 2014.	1 July 2014
4. Schedule 2	The day after this Act receives the Royal Assent.	

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

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(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

8

3 Schedule(s)

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(1) Each Act, and each set of regulations, that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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(2) The amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.

2

1 **Schedule 1—Amendments**

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

4 *Wine Australia Corporation Act 1980*

5 **1 Subsection 4(1)**

6 Insert:

7 *Authority* means the Australian Grape and Wine Authority.

8 Note: The Authority will be established on 1 July 2014.

9 **2 Subsection 4(1)**

10 Insert:

11 *Authority Selection Committee* means the Australian Grape and
12 Wine Authority Selection Committee.

13 **3 Subsection 4(1)**

14 Insert:

15 *Corporation Selection Committee* means the Wine Australia
16 Corporation Selection Committee.

17 **4 Subsection 4(1)**

18 Insert:

19 *representative organisation* has the meaning given by
20 section 5BA.

21 **5 Subsection 4(1) (definition of Selection Committee)**

22 Repeal the definition.

23 **6 After section 5B**

24 Insert:

1 **5BA Representative organisations**

2 (1) For the purposes of this Act, each of the following organisations is
3 a *representative organisation*:

- 4 (a) a declared winemakers organisation;
5 (b) a declared wine grape growers organisation;
6 (c) an organisation that the Minister declares, by legislative
7 instrument, to be a representative organisation for the
8 purposes of this Act.

9 (2) The Minister must not declare an organisation under
10 paragraph (1)(c) unless the Minister is satisfied that the objects or
11 activities of the organisation relate to either or both of the
12 following:

- 13 (a) the grape industry;
14 (b) the wine industry.

15 (3) The Minister must ensure that at least one organisation is a
16 representative organisation for the purposes of this Act.

17 **7 Subsection 13(5)**

18 Omit “Selection Committee”, substitute “Corporation Selection
19 Committee”.

20 **8 After subsection 13(5)**

21 Insert:

22 (5A) Subsection (5) does not apply to the reappointment of a member if
23 the member is reappointed for the period:

- 24 (a) beginning at the start of 1 May 2014; and
25 (b) ending at the end of 30 June 2014.

26 **9 Subsection 15(2)**

27 Omit “Selection Committee”, substitute “Corporation Selection
28 Committee”.

29 **10 After Part III**

30 Insert:

1 **Part IV—Australian Grape and Wine Authority**
2 **Selection Committee**

3 **Division 1—Introduction**

4 **27A Simplified outline of this Part**

- 5 • This Part establishes the Australian Grape and Wine Authority
6 Selection Committee.
- 7 • The functions of the Committee are:
8 (a) to select persons to be nominated for appointment as
9 directors of the Authority (other than the Chair); and
10 (b) to nominate persons so selected to the Minister for
11 appointment as directors of the Authority.

12 **Division 2—Establishment, functions and powers of the**
13 **Authority Selection Committee**

14 **27B Establishment of the Authority Selection Committee**

15 A committee to be known as the Australian Grape and Wine
16 Authority Selection Committee is established.

17 Note: In this Act, *Authority Selection Committee* means the Australian
18 Grape and Wine Authority Selection Committee—see section 4.

19 **27C Functions of the Authority Selection Committee**

20 The functions of the Authority Selection Committee are:

- 21 (a) to select persons to be nominated for appointment as
22 directors of the Authority (other than the Chair); and
23 (b) to nominate persons so selected to the Minister for
24 appointment as directors of the Authority.

- 1 (2) If the Authority Selection Committee proposes to nominate a
2 person for appointment as a director of the Authority, the Presiding
3 Member of the Authority Selection Committee must cause to be
4 prepared and attached to the nomination a statement setting out:
5 (a) details of the person’s qualifications and experience; and
6 (b) such other information relating to the person as the Authority
7 Selection Committee thinks will assist the Minister in
8 considering whether to appoint the person.
- 9 (3) The Authority Selection Committee may nominate a person for
10 appointment even though:
11 (a) the Minister has previously rejected a nomination of that
12 person; or
13 (b) the Authority Selection Committee has previously decided
14 not to nominate the person for appointment.

27H Minister may reject nominations

- 16 If the Minister is not satisfied that a person nominated by the
17 Authority Selection Committee for appointment as a director of the
18 Authority should be appointed as such a director, the Minister may:
19 (a) by written notice given to the Presiding Member of the
20 Authority Selection Committee, reject the nomination; and
21 (b) include in that notice a further request under section 27E for
22 a specified number of nominations of persons for
23 appointment to the office concerned.

Division 3—Membership of the Authority Selection Committee

27J Membership of the Authority Selection Committee

- 27 The Authority Selection Committee consists of the following
28 members:
29 (a) a Presiding Member;
30 (b) such other number of members as is determined by the
31 Minister.

1 **27K Appointment of members of the Authority Selection Committee**

- 2 (1) Each member of the Authority Selection Committee is to be
3 appointed by the Minister by written instrument.

4 Note: A member of the Authority Selection Committee is eligible for
5 reappointment: see the *Acts Interpretation Act 1901*.

- 6 (2) A member of the Authority Selection Committee holds office on a
7 part-time basis.

- 8 (3) A member of the Authority Selection Committee (other than the
9 Presiding Member) must be a person who has been nominated by a
10 representative organisation.

- 11 (4) A person who is a director of the Authority is not eligible to be
12 appointed as a member of the Authority Selection Committee.

13 **27L Period of appointment for members of the Authority Selection**
14 **Committee**

15 A member of the Authority Selection Committee holds office for
16 the period specified in the instrument of appointment. The period
17 must not exceed 3 years.

18 Note: For reappointment, see the *Acts Interpretation Act 1901*.

19 **27M Acting Presiding Member of the Authority Selection**
20 **Committee**

21 The Minister may appoint a person to act as the Presiding Member
22 of the Authority Selection Committee:

- 23 (a) during a vacancy in the office of the Presiding Member of the
24 Authority Selection Committee (whether or not an
25 appointment has previously been made to the office); or
26 (b) during any period, or during all periods, when the Presiding
27 Member of the Authority Selection Committee:
28 (i) is absent from duty or Australia; or
29 (ii) is, for any reason, unable to perform the duties of the
30 office.

1 **Division 4—Terms and conditions for members of the**
2 **Authority Selection Committee**

3 **27N Remuneration**

- 4 (1) A member of the Authority Selection Committee is to be paid the
5 remuneration that is determined by the Remuneration Tribunal. If
6 no determination of that remuneration by the Tribunal is in
7 operation, a member of the Authority Selection Committee is to be
8 paid the remuneration that is prescribed by the regulations.
- 9 (2) A member of the Authority Selection Committee is to be paid the
10 allowances that are prescribed by the regulations.
- 11 (3) This section has effect subject to the *Remuneration Tribunal Act*
12 *1973*.

13 **27P Disclosure of interests to the Minister**

14 A member of the Authority Selection Committee must give written
15 notice to the Minister of all interests, pecuniary or otherwise, that
16 the member has or acquires and that conflict or could conflict with
17 the proper performance of the member's functions.

18 **27Q Disclosure of interests to the Authority Selection Committee**

- 19 (1) A member of the Authority Selection Committee who has an
20 interest, pecuniary or otherwise, in a matter being considered or
21 about to be considered by the Authority Selection Committee must
22 disclose the nature of the interest to a meeting of the Authority
23 Selection Committee.
- 24 (2) The disclosure must be made as soon as possible after the relevant
25 facts have come to the knowledge of the member of the Authority
26 Selection Committee.
- 27 (3) The disclosure must be recorded in the minutes of the meeting of
28 the Authority Selection Committee.
- 29 (4) Unless the Authority Selection Committee otherwise determines,
30 the member of the Authority Selection Committee:

Schedule 1 Amendments

Part 1 Amendments commencing on the day after Royal Assent

- 1 (a) must not be present during any deliberation by the Authority
2 Selection Committee on the matter; and
3 (b) must not take part in any decision of the Authority Selection
4 Committee with respect to the matter.
- 5 (5) For the purposes of making a determination under subsection (4),
6 the member of the Authority Selection Committee:
7 (a) must not be present during any deliberation of the Authority
8 Selection Committee for the purpose of making the
9 determination; and
10 (b) must not take part in making the determination.
- 11 (6) A determination under subsection (4) must be recorded in the
12 minutes of the meeting of the Authority Selection Committee.
- 13 (7) A member of the Authority Selection Committee who is a grape
14 grower or a winemaker is taken not to have an interest (pecuniary
15 or otherwise) in a matter being considered or about to be
16 considered by the Authority Selection Committee by reason only
17 of being a grape grower or a winemaker.

27R Outside employment

- 18
19 (1) A member of the Authority Selection Committee must not engage
20 in any paid employment that conflicts or may conflict with the
21 proper performance of his or her duties.
- 22 (2) For the purposes of this Division, paid employment as a grape
23 grower or a winemaker is taken not to be paid employment that
24 conflicts with the proper performance of duties.

27S Leave of absence

- 25
26 (1) The Minister may grant leave of absence to the Presiding Member
27 of the Authority Selection Committee on the terms and conditions
28 that the Minister determines.
- 29 (2) The Presiding Member of the Authority Selection Committee may
30 grant leave of absence to a member of the Authority Selection
31 Committee on the terms and conditions that the Presiding Member
32 determines.

1 **27T Resignation**

- 2 (1) A member of the Authority Selection Committee may resign his or
3 her appointment by giving the Minister a written resignation.
- 4 (2) The resignation takes effect on the day it is received by the
5 Minister or, if a later day is specified in the resignation, on that
6 later day.

7 **27U Termination of appointment**

- 8 (1) The Minister may terminate the appointment of a member of the
9 Authority Selection Committee if the member is unable to perform
10 the duties of his or her office because of physical or mental
11 incapacity.
- 12 (2) The Minister may terminate the appointment of a member of the
13 Authority Selection Committee if:
- 14 (a) the member:
- 15 (i) becomes bankrupt; or
16 (ii) applies to take the benefit of any law for the relief of
17 bankrupt or insolvent debtors; or
18 (iii) compounds with his or her creditors; or
19 (iv) makes an assignment of his or her remuneration for the
20 benefit of his or her creditors; or
- 21 (b) the member fails, without reasonable excuse, to comply with
22 section 27P or 27Q; or
- 23 (c) the member engages in paid employment that conflicts or
24 may conflict with the proper performance of his or her duties
25 (see section 27R); or
- 26 (d) the member is absent, except on leave of absence, from 3
27 consecutive meetings of the Authority Selection Committee.

28 **27V Other terms and conditions**

29 A member of the Authority Selection Committee holds office on
30 the terms and conditions (if any) in relation to matters not covered
31 by this Act that are determined by the Minister.

1 **Division 5—Decision-making by the Authority Selection**
2 **Committee**

3 **27W Holding of meetings**

- 4 (1) The Authority Selection Committee is to hold such meetings as are
5 necessary for the performance of its functions.
- 6 (2) The Presiding Member of the Authority Selection Committee may
7 convene a meeting at any time.

8 **27X Presiding at meetings**

- 9 (1) The Presiding Member of the Authority Selection Committee
10 presides at all meetings at which he or she is present.
- 11 (2) If the Presiding Member of the Authority Selection Committee is
12 not present at a meeting, the members of the Authority Selection
13 Committee present must appoint one of themselves to preside.

14 **27Y Quorum**

15 At a meeting of the Authority Selection Committee, 2 members of
16 the Authority Selection Committee constitute a quorum.

17 **27Z Voting at meetings etc.**

- 18 (1) At a meeting of the Authority Selection Committee, a question is
19 decided by a majority of the votes of members of the Authority
20 Selection Committee present and voting.
- 21 (2) The person presiding at a meeting has a deliberative vote and, in
22 the event of an equality of votes, also has a casting vote.

23 **27ZA Conduct of meetings**

24 The Authority Selection Committee may, subject to this Division,
25 regulate proceedings at its meetings as it considers appropriate.

26 Note: Section 33B of the *Acts Interpretation Act 1901* provides for
27 participation in meetings by telephone etc.

1 **27ZB Minutes**

2 The Authority Selection Committee must keep minutes of its
3 meetings.

4 **Division 6—Other matters**

5 **27ZC Staff and consultants**

6 (1) The Presiding Member of the Authority Selection Committee may,
7 on behalf of the Authority Selection Committee, engage persons to
8 perform administrative and clerical services in connection with the
9 performance of its functions.

10 (2) The Presiding Member of the Authority Selection Committee may,
11 on behalf of the Authority Selection Committee, engage persons
12 having suitable qualifications and experience as consultants to the
13 Authority Selection Committee.

14 (3) The terms and conditions of engagement of persons engaged under
15 subsection (1) or (2) are as determined by the Authority Selection
16 Committee.

17 **27ZD Annual report**

18 (1) The Authority Selection Committee must, as soon as practicable
19 after 30 June in each year, prepare and give to the Minister a report
20 of the operations of the Authority Selection Committee (if any)
21 during the financial year that ended on that 30 June.

22 (2) A report for a financial year may, subject to agreement between the
23 Presiding Member of the Authority Selection Committee and the
24 Chair, be included, as a discrete part, in the annual report for the
25 Authority for that financial year.

26 Note: The annual reporting obligations for the Authority are contained in the
27 *Commonwealth Authorities and Companies Act 1997*.

28 (3) If subsection (2) does not apply to a report under this section, the
29 Minister must cause a copy of the report to be tabled in each House
30 of the Parliament within 15 sitting days of that House after the
31 Minister has received the report.

Schedule 1 Amendments

Part 1 Amendments commencing on the day after Royal Assent

1 **27ZE Definitions**

2 In this Part:

3 *Chair* means the Chair of the Authority.

4 *director* means a director of the Authority, and includes the Chair.

5 **11 At the end of section 29TA**

6 Add:

7 (4) This section does not apply to a report for the financial year that
8 began on 1 July 2013.

9 **12 At the end of Part IVA**

10 Add:

11 **29TB Final report**

12 (1) The Committee must, as soon as practicable after the end of the
13 final reporting period, prepare and give to the Minister, for
14 presentation to the Parliament, a report on its operations (if any)
15 during that period.

16 Note: See also section 34C of the *Acts Interpretation Act 1901*, which
17 contains extra rules about annual reports.

18 (2) For the purposes of this section, the *final reporting period* means
19 the period:

20 (a) beginning at the start of 1 July 2013; and

21 (b) ending at the end of 30 April 2014.

22 **13 Paragraph 35(1)(aa)**

23 Omit “Selection Committee” (wherever occurring), substitute
24 “Corporation Selection Committee”.

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

2 ***Freedom of Information Act 1982***

3 **14 Part III of Schedule 2**

4 Omit “*Wine Australia Corporation Act 1980*”, substitute “*Australian*
5 *Grape and Wine Authority Act 2013*”.

6 ***Grape and Wine Research and Development Corporation***
7 ***Regulations 1991***

8 **15 The whole of the Regulations**

9 Repeal the Regulations.

10 ***Wine Australia Corporation Act 1980***

11 **16 Title**

12 Omit “**a Wine Australia Corporation**”, substitute “**the Australian**
13 **Grape and Wine Authority**”.

14 **17 Section 1**

15 Omit “*Wine Australia Corporation Act 1980*”, substitute “*Australian*
16 *Grape and Wine Authority Act 2013*”.

17 Note: This item amends the short title of the Act. If another amendment of the Act is
18 described by reference to the Act’s previous short title, that other amendment has effect
19 after the commencement of this item as an amendment of the Act under its amended
20 short title (see section 10 of the *Acts Interpretation Act 1901*).

21 **18 Section 3**

22 Repeal the section, substitute:

23 **3 Objects**

24 The objects of this Act are:

- 25 (a) to support grape or wine research and development activities;
26 and

- 1 (b) to control the export of grape products from Australia; and
2 (c) to promote the consumption and sale of grape products, both
3 in Australia and overseas; and
4 (d) to enable Australia to fulfil its obligations under prescribed
5 wine-trading agreements and other international agreements.

6 **19 Subsection 4(1) (definition of *annual general meeting*)**

7 Repeal the definition, substitute:

8 *annual general meeting* means a meeting that is convened under
9 section 29W.

10 **20 Subsection 4(1) (definition of *annual operational plan*)**

11 Repeal the definition, substitute:

12 *annual operational plan* means an annual operational plan
13 developed by the Authority under section 31F.

14 **21 Subsection 4(1) (note at the end of the definition of**
15 ***Authority*)**

16 Repeal the note, substitute:

17 Note: See section 6.

18 **22 Subsection 4(1)**

19 Insert:

20 *Chair* means the Chair of the Authority.

21 **23 Subsection 4(1) (definition of *Chairperson*)**

22 Repeal the definition.

23 **24 Subsection 4(1) (definition of *commencing date*)**

24 Repeal the definition.

25 **25 Subsection 4(1) (definition of *corporate plan*)**

26 Repeal the definition, substitute:

27 *corporate plan* means a corporate plan prepared by the Authority
28 under section 31 or 31A.

1 **26 Subsection 4(1) (definition of *Corporation*)**

2 Repeal the definition.

3 **27 Subsection 4(1) (definition of *Corporation's component of***
4 ***wine grapes levy*)**

5 Repeal the definition.

6 **28 Subsection 4(1) (definition of *Corporation Selection***
7 ***Committee*)**

8 Repeal the definition.

9 **29 Subsection 4(1)**

10 Insert:

11 *Deputy Chair* means the Deputy Chair of the Authority.

12 **30 Subsection 4(1) (definition of *Deputy Chairperson*)**

13 Repeal the definition.

14 **31 Subsection 4(1)**

15 Insert:

16 *director* means a director of the Authority, and includes the Chair.

17 **32 Subsection 4(1)**

18 Insert:

19 *general component*, in relation to wine grapes levy, means the part
20 of the levy mentioned in paragraph 7(1)(a) of Schedule 26 to the
21 *Primary Industries (Excise) Levies Act 1999*.

22 **33 Subsection 4(1)**

23 Insert:

24 *grape industry* means the industry in Australia concerned with the
25 production of grapes for processing, other than processing by
26 drying.

1 **34 Subsection 4(1)**

2 Insert:

3 ***grape or wine research and development*** means systematic
4 experimentation and analysis in any field of science, technology or
5 economics (including the study of the social or environmental
6 consequences of the adoption of new technology) carried out with
7 the object of:

- 8 (a) acquiring knowledge that may be of use in obtaining or
9 furthering an objective of the grape industry or the wine
10 industry; or
11 (b) applying such knowledge for the purpose of attaining or
12 furthering such an objective.

13 For this purpose, ***knowledge*** includes knowledge that may be of
14 use for the purpose of improving any aspect of the production,
15 processing, storage, transport or marketing of goods that are the
16 produce, or that are derived from the produce, of the grape industry
17 or the wine industry.

18 **35 Subsection 4(1)**

19 Insert:

20 ***grape or wine research and development activity*** means:

- 21 (a) a grape or wine research and development project; or
22 (b) the training of persons to carry out grape or wine research
23 and development; or
24 (c) the dissemination of information, or the provision of advice
25 or assistance, to persons or organisations engaged in any
26 aspect of:
27 (i) the grape industry or the wine industry; or
28 (ii) the production, processing, storage, transport or
29 marketing of goods that are the produce, or that are
30 derived from the produce, of the grape industry or the
31 wine industry;

32 for the purpose of encouraging those persons or organisations
33 to adopt technical developments designed or adapted to
34 improve:

- 35 (iii) that aspect of the grape industry or the wine industry; or

- 1 (iv) that production, processing, storage, transport or
2 marketing; or
3 (d) the publication of reports, periodicals, books or papers
4 containing information that is related to grape or wine
5 research and development; or
6 (e) an activity incidental to an activity referred to in
7 paragraph (a), (b), (c) or (d).

8 **36 Subsection 4(1)**

9 Insert:

10 *grapes research levy* means levy imposed by Schedule 13 to the
11 *Primary Industries (Excise) Levies Act 1999*.

12 **37 Subsection 4(1) (definition of *industry*)**

13 Repeal the definition.

14 **38 Subsection 4(1) (definition of *member*)**

15 Repeal the definition.

16 **39 Subsection 4(1) (definition of *principal employee*)**

17 Omit “Corporation”, substitute “Authority”.

18 **40 Subsection 4(1)**

19 Insert:

20 *research component*, in relation to wine grapes levy, means the
21 part of the levy mentioned in paragraph 7(1)(b) of Schedule 26 to
22 the *Primary Industries (Excise) Levies Act 1999*.

23 **41 Subsection 4(1)**

24 Insert:

25 *vacancy*, in relation to the office of a director of the Authority, has
26 a meaning affected by section 5E.

27 **42 Subsection 4(1)**

28 Insert:

- 1 *wine industry* means the industry in Australia concerned with:
2 (a) the storage, distribution, marketing and sale of grape
3 products; or
4 (b) the making of wine.

5 **43 Subsection 4(3) (note)**

6 Repeal the note.

7 **44 Section 4B**

8 Repeal the section.

9 **45 At the end of Part I**

10 Add:

11 **5E Vacancy in the office of a director of the Authority**

12 For the purposes of a reference in:

13 (a) this Act to a vacancy in the office of a director of the
14 Authority; or

15 (b) the *Acts Interpretation Act 1901* to a vacancy in the
16 membership of a body;

17 there are taken to be 7 offices of directors of the Authority in
18 addition to the Chair of the Authority.

19 **46 Part II (heading)**

20 Omit “**Wine Australia Corporation**”, substitute “**Australian Grape
21 and Wine Authority**”.

22 **47 Sections 6 and 7**

23 Repeal the sections, substitute:

24 **Division 1—Establishment, functions and powers of the
25 Authority**

26 **6 Australian Grape and Wine Authority**

27 The Australian Grape and Wine Authority is established by this
28 section.

1 Note: In this Act, **Authority** means the Australian Grape and Wine
2 Authority—see section 4.

3 **7 Functions of the Authority**

4 The Authority has the following functions:

- 5 (a) to investigate and evaluate the requirements for grape or wine
6 research and development;
- 7 (b) to coordinate or fund the carrying out of grape or wine
8 research and development activities;
- 9 (c) to:
- 10 (i) monitor; and
11 (ii) evaluate; and
12 (iii) report to the Parliament, the Minister and the
13 representative organisations on;
14 grape or wine research and development activities that are
15 coordinated or funded, wholly or partly, by the Authority;
- 16 (d) to:
- 17 (i) assess; and
18 (ii) report to the Parliament, the Minister and the
19 representative organisations on;
20 the impact, on the grape industry or wine industry, of grape
21 or wine research and development activities that are
22 coordinated or funded, wholly or partly, by the Authority;
- 23 (e) to facilitate the dissemination, adoption and
24 commercialisation of the results of grape or wine research
25 and development;
- 26 (f) to control the export of grape products from Australia;
- 27 (g) to promote the consumption and sale of grape products, both
28 in Australia and overseas;
- 29 (h) such other functions as are conferred on the Authority by:
- 30 (i) this Act; or
31 (ii) the regulations; or
32 (iii) any other law;
- 33 (i) to do anything incidental to, or conducive to, the performance
34 of any of the above functions.

1 **7A Constitutional limits**

2 The Authority may perform its functions only:

- 3 (a) for purposes relating to trade or commerce:
- 4 (i) between Australia and places outside Australia; or
- 5 (ii) among the States; or
- 6 (iii) within a Territory, between a State and a Territory or
- 7 between 2 Territories; or
- 8 (b) for purposes related to external affairs, including any of the
- 9 following:
- 10 (i) enabling Australia to fulfil its obligations under
- 11 prescribed wine-trading agreements;
- 12 (ii) enabling Australia to fulfil its obligations under other
- 13 international agreements to which Australia is a party;
- 14 (iii) addressing matters of international concern;
- 15 (iv) by way of the performance of its functions in a place
- 16 outside Australia; or
- 17 (c) for purposes relating to a corporation to which
- 18 paragraph 51(xx) of the Constitution applies; or
- 19 (d) for purposes relating to the collection of statistics; or
- 20 (e) by way of the use of a postal, telegraphic, telephonic or other
- 21 like service within the meaning of paragraph 51(v) of the
- 22 Constitution; or
- 23 (f) by way of the making of a grant of financial assistance to a
- 24 State or Territory; or
- 25 (g) for purposes relating to a Territory; or
- 26 (h) with respect to a Commonwealth place (within the meaning
- 27 of the *Commonwealth Places (Application of Laws) Act*
- 28 *1970*); or
- 29 (i) for purposes relating to the implied power of the Parliament
- 30 to make laws with respect to nationhood; or
- 31 (j) for purposes relating to the executive power of the
- 32 Commonwealth; or
- 33 (k) for purposes relating to matters incidental to the execution of
- 34 any of the legislative powers of the Parliament or the
- 35 executive power of the Commonwealth.

1 **48 Section 8 (heading)**

2 Omit “Corporation”, substitute “**the Authority**”.

3 **49 Subsection 8(1)**

4 Omit “Corporation”, substitute “Authority”.

5 **50 Subsection 8(2)**

6 Omit “Corporation” (first occurring), substitute “Authority”.

7 **51 Paragraph 8(2)(a)**

8 Omit “Corporation”, substitute “Authority”.

9 **52 Paragraph 8(2)(d)**

10 Omit “the export of grape products from Australia, or the sale of grape
11 products overseas, by persons other than the Corporation”, substitute
12 “the consumption and sale of grape products in Australia or overseas”.

13 **53 Paragraphs 8(2)(e) and (f)**

14 Omit “Corporation” (wherever occurring), substitute “Authority”.

15 **54 Paragraph 8(2)(g)**

16 After “provision of”, insert “goods or”.

17 **55 Paragraphs 8(2)(g), (ga) and (h)**

18 Omit “Corporation”, substitute “Authority”.

19 **56 At the end of subsection 8(2)**

20 Add:

21 ; and (i) to enter into agreements under section 10A for the carrying
22 out of grape or wine research and development activities by
23 other persons; and

24 (j) to enter into agreements under section 10B for the carrying
25 out of grape or wine research and development activities by
26 the Authority and other persons; and

27 (k) to make applications, including joint applications, for patents;
28 and

- 1 (l) to deal with patents vested in the Authority or in the
2 Authority and other persons; and
3 (m) to accept gifts, grants, bequests and devises made to the
4 Authority, and act as trustee of money and other property
5 vested in the Authority on trust; and
6 (n) to join in the formation of a company.

7 **57 Subsection 8(2A) (heading)**

8 Omit “Corporation”, substitute “Authority”.

9 **58 Subsection 8(2A)**

10 Omit “Corporation’s common”, substitute “Authority’s”.

11 **59 Subsection 8(2B)**

12 Omit “Corporation” (first occurring), substitute “Authority”.

13 **60 Subsection 8(2B)**

14 Omit “Chairperson”, substitute “Chair”.

15 **61 Subsection 8(2B)**

16 Omit “Corporation” (last occurring), substitute “Authority”.

17 **62 Subsection 8(2F)**

18 Omit “*Wine Australia Corporation Act 1980*” (wherever occurring),
19 substitute “*Australian Grape and Wine Authority Act 2013*”.

20 **63 Subsection 8(2G)**

21 Omit “Chairperson”, substitute “Chair”.

22 **64 Subsection 8(3)**

23 Omit “Corporation”, substitute “Authority”.

24 **65 Section 10**

25 Omit “Corporation” (wherever occurring), substitute “Authority”.

26 **66 After section 10**

27 Insert:

1 **10A Agreements for carrying out grape or wine research and**
2 **development activities by other persons**

- 3 (1) The Authority may enter into an agreement with a person for the
4 carrying out of grape or wine research and development activities
5 by the person.
- 6 (2) The agreement may:
- 7 (a) provide for:
- 8 (i) the money provided under the agreement; and
9 (ii) any property acquired or goods produced with that
10 money, or with money that includes that money;
11 to be used for the purposes specified in the agreement; and
- 12 (b) provide for the payment by the person to the Authority of an
13 amount equal to the whole, or such part as the Authority
14 determines, of the money provided under the agreement if
15 any of the money, property or goods referred to in
16 paragraph (a) is or are used for a purpose not specified in the
17 agreement; and
- 18 (c) make provision with respect to:
- 19 (i) assigning inventions and interests in inventions; and
20 (ii) applying for patents for inventions; and
21 (iii) commercially exploiting patented inventions; and
22 (iv) granting licences under patented inventions;
23 where the inventions are made in the course of undertaking
24 grape or wine research and development activities or doing
25 anything else with that money or with money that includes
26 that money; and
- 27 (d) provide for the payment by the person to the Authority of an
28 amount equal to the whole, or such part as the Authority
29 determines, of any net income derived by the person from:
- 30 (i) the money, property or goods referred to in
31 paragraph (a); or
32 (ii) patents or interests referred to in paragraph (c); and
- 33 (e) provide for the assignment by the person to the Authority of
34 any money, property, goods, patents or interests referred to in
35 paragraph (d); and

1 (f) provide for the payment by the person to the Authority of an
2 amount of money determined by the Authority in accordance
3 with the agreement in the event of the disposal (otherwise
4 than to the Authority) of any property, goods, patents or
5 interests referred to in paragraph (d).

6 (3) Subsection (2) does not limit the matters that may be included in
7 the agreement.

8 (4) This section does not limit section 8.

9 **10B Agreements for carrying out grape or wine research and**
10 **development activities with other persons**

11 (1) The Authority may enter into an agreement (including a joint
12 venture agreement or a partnership agreement) with a person for
13 grape or wine research and development activities to be carried out
14 by the Authority and the person.

15 (2) The agreement must specify:

16 (a) the objectives of the grape or wine research and development
17 activities; and

18 (b) the expected duration of the grape or wine research and
19 development activities; and

20 (c) the nature and extent of the contribution to be made by the
21 Authority towards the grape or wine research and
22 development activities; and

23 (d) the basis for the distribution of profits and other benefits
24 derived from the grape or wine research and development
25 activities.

26 (3) Subsection (2) does not limit the matters that may be included in
27 the agreement.

28 (4) This section does not limit section 8.

1 **10C Grants relating to grape or wine research and development**
2 **activities**

- 3 (1) The Authority may make a grant of financial assistance to a State if
4 the grant relates to grape or wine research and development
5 activities.
- 6 (2) The terms and conditions on which that financial assistance is
7 granted are to be set out in a written agreement between the
8 Authority and the State.
- 9 (3) For the purposes of this section, *State* includes:
10 (a) the Australian Capital Territory; and
11 (b) the Northern Territory.

12 **10D Consultations with persons and organisations**

- 13 (1) The Authority may make arrangements for consulting:
14 (a) persons and bodies representative of the grape industry or the
15 wine industry (including any of the representative
16 organisations); and
17 (b) Commonwealth, State and Territory authorities concerned
18 with the grape industry or the wine industry.
- 19 (2) Arrangements made by the Authority under subsection (1) may
20 provide for:
21 (a) the Authority agreeing to meet travel expenses reasonably
22 incurred by a person in connection with consultations with
23 the Authority; and
24 (b) subject to written guidelines given to the Authority by the
25 Minister, the Authority agreeing to meet expenses (other than
26 travel expenses) reasonably incurred by a representative
27 organisation, or a member of a representative organisation, in
28 connection with consultations with the Authority.
- 29 (3) Subsection (2) does not limit subsection (1).
- 30 (4) This section does not limit section 8.

31 **67 Subsections 11(1) and (1A)**

32 Omit “Corporation” (wherever occurring), substitute “Authority”.

1 **68 Subsection 11(2)**

2 Omit “member of the Corporation, as the Corporation”, substitute
3 “director of the Authority, as the Authority”.

4 **69 At the end of Part II**

5 Add:

6 **11A Authority does not have privileges and immunities of the**
7 **Crown**

8 The Authority does not have the privileges and immunities of the
9 Crown in right of the Commonwealth.

10 **70 Part III (heading)**

11 Repeal the heading.

12 **71 Sections 12 to 22**

13 Repeal the sections, substitute:

14 **Division 2—Constitution and membership of the Authority**

15 **12 Constitution of the Authority**

- 16 (1) The Authority:
- 17 (a) is a body corporate with perpetual succession; and
 - 18 (b) must have a seal; and
 - 19 (c) may acquire, hold and dispose of real and personal property;
 - 20 and
 - 21 (d) may sue and be sued in its corporate name.

22 Note: The *Commonwealth Authorities and Companies Act 1997* applies to
23 the Authority. That Act deals with matters relating to Commonwealth
24 authorities, including reporting and accountability, banking and
25 investment, and conduct of officers.

- 26 (2) The seal of the Authority is to be kept in such custody as the
27 Authority directs and must not be used except as authorised by the
28 Authority.

- 29 (3) All courts, judges and persons acting judicially must:
-

- 1 (a) take judicial notice of the imprint of the seal of the Authority
2 appearing on a document; and
3 (b) presume that the document was duly sealed.

4 **13 Membership of the Authority**

- 5 The Authority consists of the following directors:
6 (a) a Chair;
7 (b) at least 5, and not more than 7, other directors.

8 **14 Appointment of directors of the Authority**

- 9 (1) Each director of the Authority is to be appointed by the Minister by
10 written instrument.

11 Note: The director of the Authority is eligible for reappointment: see the
12 *Acts Interpretation Act 1901*.

- 13 (2) A person is not eligible for appointment as a director of the
14 Authority unless the Minister is satisfied that the person is suitably
15 qualified for appointment because of expertise in one or more of
16 the following fields:

- 17 (a) grape growing;
18 (b) winemaking;
19 (c) marketing;
20 (d) finance;
21 (e) business management and administration;
22 (f) government policy processes and public administration;
23 (g) strategic management;
24 (h) administration of research and development;
25 (i) technology;
26 (j) law;
27 (k) human resource management;
28 (l) communications.

- 29 (3) A person is not eligible for appointment as a director of the
30 Authority if the person is a member of the executive of a
31 representative organisation.

- 1 (4) The directors of the Authority (other than the Chair) are to be
2 appointed from persons nominated by the Authority Selection
3 Committee in accordance with section 27F.
- 4 (5) Before appointing the Chair of the Authority, the Minister must
5 consult:
6 (a) if there are already one or more directors of the Authority
7 (other than the Chair)—those directors; and
8 (b) in any case—each representative organisation.
- 9 (6) In appointing directors of the Authority, the Minister must have
10 regard to whether the directors of the Authority will collectively
11 possess:
12 (a) an appropriate balance of expertise in as many as possible of
13 the fields referred to in subsection (2); and
14 (b) experience in board affairs.
- 15 (7) A director of the Authority holds office on a part-time basis.

16 **15 Period of appointment for directors of the Authority**

- 17 (1) A director of the Authority holds office for the period specified in
18 the instrument of appointment. The period must not exceed 3 years.
- 19 Note: For reappointment, see the *Acts Interpretation Act 1901*.
- 20 (2) A director of the Authority must not be reappointed on more than
21 one occasion.

22 **16 Acting directors of the Authority**

23 *Acting Chair of the Authority*

- 24 (1) The Minister may appoint a person to act as the Chair of the
25 Authority:
26 (a) during a vacancy in the office of the Chair of the Authority
27 (whether or not an appointment has previously been made to
28 the office); or
29 (b) during any period, or during all periods, when the Chair of
30 the Authority:
31 (i) is absent from duty or Australia; or

1 (ii) is, for any reason, unable to perform the duties of the
2 office.

3 *Acting director of the Authority (other than the Chair of the*
4 *Authority)*

- 5 (2) The Minister may appoint a person to act as a director of the
6 Authority (other than the Chair of the Authority):
- 7 (a) during a vacancy in the office of a director of the Authority
8 (other than the Chair of the Authority), whether or not an
9 appointment has previously been made to the office; or
 - 10 (b) during any period, or during all periods, when a director of
11 the Authority (other than the Chair of the Authority):
 - 12 (i) is absent from duty or Australia; or
 - 13 (ii) is, for any reason, unable to perform the duties of the
14 office.

15 *Eligibility*

- 16 (3) A person is not eligible for appointment to act as:
17 (a) the Chair of the Authority; or
18 (b) a director of the Authority (other than the Chair of the
19 Authority);
20 unless the person is eligible for appointment as a director of the
21 Authority.

22 Note 1: See subsections 14(2) and (3).

23 Note 2: For rules that apply to acting appointments, see sections 33AB and
24 33A of the *Acts Interpretation Act 1901*.

25 **17 Deputy Chair**

- 26 (1) The Authority may, in writing, appoint a director (other than the
27 Chair) to be the Deputy Chair of the Authority for such period as is
28 specified in the instrument of appointment.
- 29 (2) The Deputy Chair holds office until:
30 (a) his or her term of office as Deputy Chair expires; or
31 (b) he or she ceases to be a director of the Authority; or
32 (c) the Authority terminates the appointment;

- 1 (2) For the purposes of this Division, paid employment as a grape
2 grower or a winemaker is taken not to be paid employment that
3 conflicts with the proper performance of duties.

4 **21 Leave of absence**

5 The Chair of the Authority may grant leave of absence to a director
6 of the Authority on the terms and conditions that the Chair
7 determines.

8 **22 Resignation**

- 9 (1) A director of the Authority may resign his or her appointment by
10 giving the Minister a written resignation.
- 11 (2) The resignation takes effect on the day it is received by the
12 Minister or, if a later day is specified in the resignation, on that
13 later day.

14 **23 Termination of appointment**

- 15 (1) The Minister may terminate the appointment of a director of the
16 Authority if the director is unable to perform the duties of his or
17 her office because of physical or mental incapacity.
- 18 (2) The Minister may terminate the appointment of a director of the
19 Authority if:
- 20 (a) the director:
- 21 (i) becomes bankrupt; or
- 22 (ii) applies to take the benefit of any law for the relief of
23 bankrupt or insolvent debtors; or
- 24 (iii) compounds with his or her creditors; or
- 25 (iv) makes an assignment of his or her remuneration for the
26 benefit of his or her creditors; or
- 27 (b) the director fails, without reasonable excuse, to comply with
28 an obligation imposed on him or her by section 27F or 27J of
29 the *Commonwealth Authorities and Companies Act 1997*; or
- 30 (c) the director engages in paid employment that conflicts or
31 may conflict with the proper performance of his or her duties
32 (see section 20); or

- 1 (d) the Minister is satisfied that the performance of the director
2 has been unsatisfactory for a significant period; or
3 (e) the director is absent, except on leave of absence, from 3
4 consecutive meetings of the Authority.
- 5 (3) The Minister must terminate the appointment of a director of the
6 Authority if the director becomes a member of the executive of a
7 representative organisation.

8 **24 Other terms and conditions**

9 A director of the Authority holds office on the terms and
10 conditions (if any) in relation to matters not covered by this Act
11 that are determined by the Minister.

12 **Division 4—Decision-making by the Authority**

13 **25 Holding of meetings**

- 14 (1) The Authority is to hold such meetings as are necessary for the
15 performance of its functions.
- 16 (2) The Chair of the Authority may convene a meeting at any time.

17 **26 Presiding at meetings**

- 18 (1) The Chair of the Authority presides at all meetings at which he or
19 she is present.
- 20 (2) If the Chair of the Authority is not present at a meeting:
21 (a) the Deputy Chair must preside; or
22 (b) if the Deputy Chair is not present—the directors of the
23 Authority present must appoint one of themselves to preside.

24 **26A Quorum**

- 25 (1) At a meeting of the Authority, a quorum is constituted by a
26 majority of directors.
- 27 (2) However, if:

- 1 (a) a director of the Authority is required by section 27J of the
2 *Commonwealth Authorities and Companies Act 1997* not to
3 be present during the deliberations, or to take part in any
4 decision, of the Authority with respect to a particular matter;
5 and
6 (b) when the director leaves the meeting concerned there is no
7 longer a quorum present;
8 the remaining directors at the meeting constitute a quorum for the
9 purpose of any deliberation or decision at that meeting with respect
10 to that matter.

11 **26B Voting at meetings etc.**

- 12 (1) At a meeting of the Authority, a question is decided by a majority
13 of the votes of directors of the Authority present and voting.
14 (2) The person presiding at a meeting has a deliberative vote and, in
15 the event of an equality of votes, also has a casting vote.

16 **26C Conduct of meetings**

- 17 (1) The Authority may, subject to this Division, regulate proceedings
18 at its meetings as it considers appropriate.

19 Note: Section 33B of the *Acts Interpretation Act 1901* provides for
20 participation in meetings by telephone etc.

- 21 (2) The Authority may invite a person to attend a meeting of the
22 Authority for the purpose of advising or informing the Authority
23 on any matter.
24 (3) A person referred to in subsection (2) is to be paid such fees,
25 allowances and expenses (if any) as the Authority determines in
26 respect of the person's attendance at a meeting of the Authority.

27 **26D Minutes**

28 The Authority must keep minutes of its meetings.

29 **72 Section 27ZD**

30 Repeal the section.

1 **73 Part IVA**

2 Repeal the Part.

3 **74 Part IVB (heading)**

4 Omit “the industry”, substitute “the grape industry and the wine
5 industry”.

6 **75 Subsection 29U(1) (definition of *old Charge Act*)**

7 Repeal the definition.

8 **76 Subsection 29U(1) (definition of *old Levy Act*)**

9 Repeal the definition.

10 **77 Subsection 29U(2)**

11 Omit “wine grapes levy, wine export charge or levy imposed under the
12 old Levy Act”, substitute “wine grapes levy or wine export charge”.

13 **78 Subsection 29V(1)**

14 Omit “Corporation”, substitute “Authority”.

15 **79 Paragraphs 29V(1)(aa), (ab), (a) and (b)**

16 Repeal the paragraphs, substitute:

- 17 (a) wine grapes levy; or
18 (b) wine export charge;

19 **80 Subsection 29V(2)**

20 Omit “Corporation”, substitute “Authority”.

21 **81 Section 29W**

22 Repeal the section, substitute:

23 **29W Authority to convene annual general meeting**

24 (1) The Authority may cause an annual general meeting of the grape
25 industry and the wine industry to be convened at a time and place
26 determined by the Authority.

- 1 (2) The Authority must convene an annual general meeting under
2 subsection (1) if requested to do so by a representative
3 organisation.
- 4 (3) If, during a year, 10 or more eligible producers for the year jointly
5 request the Authority to convene an annual general meeting under
6 subsection (1), the Authority must comply with that request.
- 7 (4) A request under subsection (2) or (3) must be in writing.

8 **82 Paragraph 29X(a)**

9 Omit “Corporation”, substitute “Authority”.

10 **83 At the end of paragraph 29X(a)**

11 Add “and”.

12 **84 Paragraphs 29X(b) and (c)**

13 Repeal the paragraphs, substitute:

- 14 (b) to receive an address by the Chair with respect to:
- 15 (i) the performance of the Authority in the year to which
16 the annual report relates; and
- 17 (ii) the economic outlook for the grape industry and the
18 wine industry, and the intended activities of the
19 Authority, in the year next following that year; and
- 20 (c) to question the directors of the Authority concerning any
21 aspect of:
- 22 (i) the Authority’s activities during the year to which the
23 annual report relates; or
- 24 (ii) the intended activities of the Authority; and

25 **85 Paragraph 29X(d)**

26 Omit “Corporation”, substitute “Authority”.

27 **86 Paragraph 29Y(1)(a)**

28 Omit “members of the Corporation”, substitute “directors of the
29 Authority”.

1 **87 Paragraphs 29Y(1)(c) and (d)**

2 Omit “Corporation”, substitute “Authority”.

3 **88 Paragraph 29Y(1)(d)**

4 Omit “Chairperson”, substitute “Chair”.

5 **89 Subsection 29Y(2)**

6 Omit “Chairperson”, substitute “Chair”.

7 **90 Subsection 29Y(3)**

8 Omit “Corporation”, substitute “Authority”.

9 **91 Subsection 29Y(3)**

10 Omit “the industry”, substitute “the grape industry and the wine
11 industry”.

12 **92 Section 29ZA**

13 Repeal the section.

14 **93 Part V (at the end of the heading)**

15 Add “and consultants”.

16 **94 Section 30**

17 Omit “Corporation” (wherever occurring), substitute “Authority”.

18 **95 At the end of Part V**

19 Add:

20 **30A Consultants**

21 (1) The Authority may engage persons having suitable qualifications
22 and experience as consultants to the Authority.

23 (2) The consultants are to be engaged on the terms and conditions that
24 the Authority determines in writing.

25 **96 Part VA (heading)**

26 Omit “Corporation”, substitute “Authority”.

1 **97 Sections 31 to 31E**

2 Repeal the sections, substitute:

3 **31 Corporate plans—5-year periods**

4 (1) The Authority must:

- 5 (a) prepare a corporate plan for each designated 5-year period;
6 and
7 (b) give it to the Minister.

8 Note: For *designated 5-year period*, see subsection (11).

9 (2) The plan must include details of the following matters:

- 10 (a) the principal objectives of the Authority;
11 (b) the strategies and policies that are to be followed by the
12 Authority in order to achieve those objectives;
13 (c) the objectives and priorities of the Authority relating to grape
14 or wine research and development;
15 (d) the strategies and policies that are to be followed by the
16 Authority in order to achieve those objectives and priorities;
17 (e) such other matters (if any) as the Minister requires.

18 (3) The plan must set out the Authority's assessment, for the period to
19 which the plan relates, of the market outlook and the economic
20 outlook for the grape industry and the wine industry.

21 (4) A corporate plan prepared under this section is of no effect unless
22 the plan has been approved in writing by the Minister.

23 *Varying a corporate plan*

24 (5) The Authority may vary a corporate plan that was prepared under
25 this section.

26 (6) A variation of such a corporate plan is of no effect unless the
27 variation has been approved in writing by the Minister.

28 *Other matters*

29 (7) The Chair must keep the Minister informed about matters that
30 might significantly affect the achievement of the objectives or

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- 1 priorities set out in a corporate plan that was prepared under this
2 section.
- 3 (8) The Minister may give the Chair written guidelines that are to be
4 used by the Chair in deciding whether a matter is covered by
5 paragraph (2)(e) or subsection (7).
- 6 (9) Before preparing or varying a corporate plan under this section, the
7 Authority must consult each representative organisation.
- 8 (10) None of the following is a legislative instrument:
9 (a) a requirement under paragraph (2)(e) that is in writing;
10 (b) an approval under subsection (4);
11 (c) an approval under subsection (6);
12 (d) a guideline given under subsection (8).
- 13 (11) For the purposes of this section, each of the following is a
14 *designated 5-year period*:
15 (a) the 5-year period beginning on 1 July 2015;
16 (b) each succeeding 5-year period.
- 17 (12) The Authority must ensure that the first corporate plan it prepares
18 under this section is given to the Minister before 1 May 2015.

19 **31A Corporate plan—initial period**

- 20 (1) The Authority must:
21 (a) prepare a corporate plan within 3 months after the
22 commencement of this subsection; and
23 (b) give it to the Minister.
- 24 (2) The plan must cover the period:
25 (a) beginning when the plan takes effect; and
26 (b) ending at the end of 30 June 2015.
- 27 (3) The plan must include details of the following matters:
28 (a) the principal objectives of the Authority;
29 (b) the strategies and policies that are to be followed by the
30 Authority in order to achieve those objectives;
31 (c) the objectives and priorities of the Authority relating to grape
32 or wine research and development;
-

- 1 (d) the strategies and policies that are to be followed by the
2 Authority in order to achieve those objectives and priorities;
3 (e) such other matters (if any) as the Minister requires.

4 (4) The plan must set out the Authority's assessment, for the period to
5 which the plan relates, of the market outlook and the economic
6 outlook for the grape industry and the wine industry.

7 (5) The plan is of no effect unless it has been approved in writing by
8 the Minister.

9 *Varying the corporate plan*

10 (6) The Authority may vary the plan.

11 (7) A variation of the plan is of no effect unless the variation has been
12 approved in writing by the Minister.

13 *Other matters*

14 (8) The Chair must keep the Minister informed about matters that
15 might significantly affect the achievement of the objectives or
16 priorities set out in the plan.

17 (9) The Minister may give the Chair written guidelines that are to be
18 used by the Chair in deciding whether a matter is covered by
19 paragraph (3)(e) or subsection (8).

20 (10) None of the following is a legislative instrument:

- 21 (a) a requirement under paragraph (3)(e) that is in writing;
22 (b) an approval under subsection (5);
23 (c) an approval under subsection (7);
24 (d) a guideline given under subsection (9).

25 **98 Section 31F (heading)**

26 Omit "Corporation", substitute "Authority".

27 **99 Subsection 31F(1)**

28 Omit "Corporation" (wherever occurring), substitute "Authority".

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

2 Insert:

3 (1A) The Authority must ensure that the first annual operational plan is
4 developed within 3 months after the commencement of this
5 subsection.

6 **101 Sections 31G to 31J**

7 Repeal the sections.

8 **102 Section 31K (heading)**

9 Omit “Corporation”, substitute “Authority”.

10 **103 Subsections 31K(1) and (2)**

11 Omit “Corporation” (wherever occurring), substitute “Authority”.

12 **104 Subsection 31K(3)**

13 Omit “Chairperson”, substitute “Chair”.

14 **105 Subsections 31K(4), (5), (6) and (7)**

15 Omit “Corporation” (wherever occurring), substitute “Authority”.

16 **106 Paragraph 31K(7)(b)**

17 Omit “Chairperson”, substitute “Chair”.

18 **107 Section 31L**

19 Repeal the section.

20 **108 Section 32 (heading)**

21 Omit “Corporation”, substitute “the Authority”.

22 **109 Section 32**

23 Omit “Corporation”, substitute “Authority”.

24 **110 Paragraphs 32(aa) and (ab)**

25 Omit “Corporation’s”, substitute “general”.

1 **111 Paragraphs 32(a), (b), (c) and (d)**

2 Repeal the paragraphs, substitute:

- 3 (ae) amounts received by the Commonwealth as the research
4 component of wine grapes levy; and
5 (af) so much of the amounts (if any) received by the
6 Commonwealth under section 15 of the *Primary Industries*
7 *Levies and Charges Collection Act 1991* as is attributable to
8 non-payment of the research component of wine grapes levy;
9 and
10 (ag) amounts received by the Commonwealth as grapes research
11 levy; and
12 (ah) so much of the amounts (if any) received by the
13 Commonwealth under section 15 of the *Primary Industries*
14 *Levies and Charges Collection Act 1991* as is attributable to
15 non-payment of grapes research levy; and
16 (ai) subject to sections 32A and 32B, amounts equal to one-half
17 of the amounts spent by the Authority as mentioned in
18 paragraph 35(1)(ac).

19 **112 After section 32**

20 Insert:

21 **32A Limit on Commonwealth's matching payments**

22 (1) The sum of:

- 23 (a) the amounts paid to the Authority under paragraph 32(ai) of
24 this Act; and
25 (b) the amounts paid to the Grape and Wine Research and
26 Development Corporation before the commencement of this
27 section under paragraph 30(1)(b) of the *Primary Industries*
28 *and Energy Research and Development Act 1989*;

29 must not exceed the total of:

- 30 (c) the sum of the amounts paid to the Authority under
31 paragraphs 32(ae) and (ag) of this Act, less the sum of:
32 (i) any refunds required to be paid by the Commonwealth
33 in respect of amounts that have been paid or overpaid to
34 the Commonwealth by way of the research component
35 of wine grapes levy; and

- 1 (ii) any refunds required to be paid by the Commonwealth
2 in respect of amounts that have been paid or overpaid to
3 the Commonwealth by way of grapes research levy; and
4 (d) the sum of the amounts paid to the Grape and Wine Research
5 and Development Corporation before the commencement of
6 this section under subparagraphs 30(1)(a)(i) and (ii) of the
7 *Primary Industries and Energy Research and Development*
8 *Act 1989*, less the sum of any refunds in relation to research
9 components of levies attached to the Grape and Wine
10 Research and Development Corporation.
- 11 (2) An expression used in paragraph (1)(d) of this section has the same
12 meaning as it had in the *Primary Industries and Energy Research*
13 *and Development Act 1989* as in force immediately before the
14 commencement of this section.

15 **32B Retention limit for Commonwealth's matching payments**

- 16 (1) For the purposes of this section, ***gross value of production***, in
17 relation to a financial year, means the gross value of production,
18 for that financial year, of the goods that are produce of the grape
19 industry and the wine industry.
- 20 (2) If:
- 21 (a) before the end of 31 October next following a financial year,
22 the Minister determines the amount of the gross value of
23 production in relation to the financial year; and
24 (b) as at the end of 31 October next following the financial year,
25 the sum of the amounts that were paid to the Authority during
26 the financial year under paragraph 32(ai) exceeds 0.5% of the
27 amount of the gross value of production in relation to the
28 financial year as determined by the Minister;
29 the Authority must pay to the Commonwealth an amount equal to
30 the excess.
- 31 (3) If:
- 32 (a) before the end of 31 October next following a financial year,
33 the Minister has not determined under subsection (2) the
34 amount of the gross value of production in relation to a
35 financial year; and

- 1 (b) the Minister has determined under subsection (2) the amount
2 of the gross value of production in relation to the previous
3 financial year;
4 the Minister is taken to have made, immediately before the end of
5 that 31 October, a determination under subsection (2) that the
6 amount of the gross value of production in relation to the financial
7 year is equal to the amount of the gross value of production
8 determined under subsection (2) for the previous financial year.
- 9 (4) The Minister may, on behalf of the Commonwealth, set off an
10 amount payable by the Authority under subsection (2) against an
11 amount that is payable to the Authority under paragraph 32(ai).
- 12 (5) A determination made under subsection (2) is not a legislative
13 instrument.
- 14 (6) The regulations may provide for the manner in which the Minister
15 is to determine the amount of the gross value of production for a
16 financial year.

17 **113 Section 33 (heading)**

18 Omit “Corporation”, substitute “the Authority”.

19 **114 Subsections 33(1) and (2)**

20 Repeal the subsections.

21 **115 Subsection 33(3)**

22 Omit “Corporation”, substitute “Authority”.

23 **116 Paragraph 33(4)(b)**

24 Omit “Corporation’s”, substitute “general”.

25 **117 Subsection 33(4)**

26 Omit “Corporation”, substitute “Authority”.

27 **118 At the end of section 33**

28 Add:

- 29 (5) If:

1 (a) a refund is made by the Commonwealth under section 18 of
2 the *Primary Industries Levies and Charges Collection Act*
3 *1991* in respect of an amount; and

4 (b) the amount has been paid or overpaid to the Commonwealth
5 by way of the research component of wine grapes levy;
6 the Authority must pay to the Commonwealth an amount equal to
7 the amount of the refund.

8 (6) If:

9 (a) a refund is made by the Commonwealth under section 18 of
10 the *Primary Industries Levies and Charges Collection Act*
11 *1991* in respect of an amount; and

12 (b) the amount has been paid or overpaid to the Commonwealth
13 by way of grapes research levy;
14 the Authority must pay to the Commonwealth an amount equal to
15 the amount of the refund.

16 **119 Section 34**

17 Omit “Corporation” (wherever occurring), substitute “Authority”.

18 **120 Section 34A (heading)**

19 Omit “Corporation”, substitute “Authority”.

20 **121 Section 34A**

21 Omit “Corporation” (wherever occurring), substitute “Authority”.

22 **122 Section 34B**

23 Omit “Corporation”, substitute “Authority”.

24 **123 Section 35 (heading)**

25 Omit “Corporation”, substitute “the Authority”.

26 **124 Section 35**

27 Omit “Corporation” (first and second occurring), substitute “Authority”.

28 **125 Paragraph 35(1)(a)**

29 Omit “under this Act;”, substitute “under this Act, the regulations or
30 any other law; and”.

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

2 Omit “Corporation Selection Committee” (wherever occurring),
3 substitute “Authority Selection Committee”.

4 **127 At the end of paragraph 35(1)(aa)**

5 Add “and”.

6 **128 Paragraph 35(1)(ab)**

7 Repeal the paragraph, substitute:

8 (ab) in payment to the Commonwealth of amounts payable under
9 subsection 32B(2); and

10 (ac) for the purposes of funding grape or wine research and
11 development activities included in the broad groupings of
12 grape or wine research and development activities specified
13 in an annual operational plan in force when the relevant
14 payments are made; and

15 (ad) in payment to the Commonwealth of amounts payable under
16 section 36; and

17 **129 Paragraph 35(1)(c)**

18 Omit “Corporation”, substitute “Authority”.

19 **130 At the end of paragraph 35(1)(c)**

20 Add “, the regulations or any other law”.

21 **131 After subsection 35(1)**

22 Insert:

23 (1A) Money paid to the Authority under paragraph 32(ae) or (ag) may
24 be applied only for the following purposes:

25 (a) funding grape or wine research and development activities
26 included in the broad groupings of grape or wine research
27 and development activities specified in an annual operational
28 plan in force when the relevant payments are made;

29 (b) paying or discharging so much of the expenses, charges,
30 obligations and liabilities incurred or undertaken by the
31 Authority as are attributable to:

- 1 (i) the performance of its functions relating to grape or
2 wine research and development; or
3 (ii) the exercise of its powers relating to grape or wine
4 research and development;
5 (c) paying to the Commonwealth amounts payable under
6 subsection 32B(2);
7 (d) paying to the Commonwealth amounts payable under
8 subsection 33(5) or (6);
9 (e) paying to the Commonwealth amounts payable under
10 section 36, where the amounts are in respect of the collection
11 or recovery of amounts referred to in paragraph 32(ae) or
12 (ag).

13 **132 Subsection 35(2)**

14 Omit “Subsection (1) does not”, substitute “Subsections (1) and (1A) do
15 not”.

16 **133 Subsection 35(2)**

17 Omit “Corporation”, substitute “Authority”.

18 **134 After section 35**

19 Insert:

20 **36 Commonwealth to be paid levy expenses etc.**

21 The Authority must pay to the Commonwealth amounts equal to
22 the expenses incurred by the Commonwealth in relation to:

- 23 (a) the collection or recovery of amounts referred to in
24 paragraph 32(aa), (ab), (ac), (ad), (ae), (af), (ag) or (ah); and
25 (b) the administration of section 32.

26 **135 Section 38**

27 Before “The report”, insert “(1)”.

28 **136 Section 38**

29 Omit “members”, substitute “directors”.

1 **137 Section 38**

2 Omit “Corporation”, substitute “Authority”.

3 **138 At the end of section 38**

4 Add:

- 5 (2) The report prepared by the directors under section 9 of the
6 *Commonwealth Authorities and Companies Act 1997* on the
7 operations of the Authority for a period must include:
8 (a) particulars of:
9 (i) the grape or wine research and development activities
10 that the Authority coordinated or funded, wholly or
11 partly, during the period; and
12 (ii) the amount that the Authority spent during the period in
13 relation to each of those activities; and
14 (iii) which (if any) of those activities related to ecologically
15 sustainable development; and
16 (iv) the impact of those activities on the grape industry and
17 the wine industry; and
18 (v) the entering into of agreements under section 10A
19 during the period, and the Authority’s activities during
20 the period in relation to agreements entered into under
21 that section during or before the period; and
22 (vi) the entering into of agreements under section 10B
23 during the period, and the Authority’s activities during
24 the period in relation to agreements entered into under
25 that section during or before the period; and
26 (vii) the making of grants under section 10C during the
27 period; and
28 (viii) the Authority’s activities during the period in relation to
29 applying for patents for inventions, commercially
30 exploiting patented inventions and granting licences
31 under patented inventions; and
32 (ix) the activities of any companies in which the Authority
33 has an interest; and
34 (x) any activities relating to the formation of a company;
35 and

- 1 (xi) significant acquisitions and dispositions of real property
2 by the Authority during the period; and
3 (b) an assessment of the extent to which the Authority's
4 operations during the period have:
5 (i) achieved the Authority's objectives as stated in its
6 corporate plan; and
7 (ii) implemented the annual operational plan applicable to
8 the period; and
9 (c) an assessment of the extent to which the Authority has,
10 during the period, contributed to the attainment of the objects
11 of this Act as set out in section 3.
- 12 (3) The report prepared by the directors under section 9 of the
13 *Commonwealth Authorities and Companies Act 1997* on the
14 operations of the Authority for a period must be published on the
15 Authority's website as soon as practicable after the report is tabled
16 in the House of Representatives.

17 **139 After section 38**

18 Insert:

19 **38A Accountability to representative organisations**

- 20 (1) As soon as practicable after the report prepared by the directors
21 under section 9 of the *Commonwealth Authorities and Companies*
22 *Act 1997* on the operations of the Authority for a period has been
23 given to the responsible Minister (within the meaning of that
24 section), the Chair of the Authority must:
25 (a) provide copies of the report to each representative
26 organisation; and
27 (b) make arrangements with each of those organisations to
28 attend:
29 (i) the organisation's annual conference; or
30 (ii) a meeting of the organisation's executive;
31 for the purposes set out in subsection (2).
- 32 (2) The purposes mentioned in paragraph (1)(b) are as follows:
33 (a) to enable the report to be considered;
34 (b) to enable the Chair to deliver an address in relation to:
-

- 1 (i) the Authority’s activities in the period to which the
2 report relates; and
3 (ii) the Authority’s intended activities in the financial year
4 next following the end of that period;
5 (c) to enable the Chair to be questioned about those activities.

6 **140 Section 39**

7 Omit “Corporation” (wherever occurring), substitute “Authority”.

8 **141 Section 39ZAA (heading)**

9 Omit “Corporation”, substitute “Authority”.

10 **142 Subsection 39ZAA(1)**

11 Omit “Corporation” (wherever occurring), substitute “Authority”.

12 **143 Section 39ZAC (heading)**

13 Omit “Corporation”, substitute “Authority”.

14 **144 Section 39ZAC**

15 Omit “Corporation” (wherever occurring), substitute “Authority”.

16 **145 Subparagraph 39ZAC(c)(i)**

17 Omit “Corporation’s”, substitute “Authority’s”.

18 **146 Section 39ZA**

19 Omit “Corporation” (wherever occurring), substitute “Authority”.

20 **147 Section 39ZB**

21 Omit “Corporation” (wherever occurring), substitute “Authority”.

22 **148 Section 39ZJ (heading)**

23 Omit “Corporation”, substitute “Authority”.

24 **149 Section 39ZJ**

25 Omit “Corporation” (wherever occurring), substitute “Authority”.

1 **150 Section 39ZK (heading)**

2 Omit “Corporation”, substitute “Authority”.

3 **151 Paragraph 39ZK(a)**

4 Omit “Corporation”, substitute “Authority”.

5 **152 Paragraph 39ZK(b)**

6 Omit “member of the Corporation”, substitute “director of the
7 Authority”.

8 **153 Paragraph 39ZK(c)**

9 Omit “Corporation”, substitute “Authority”.

10 **154 Section 39ZL (heading)**

11 Omit “Corporation”, substitute “Authority”.

12 **155 Paragraphs 39ZL(1)(c), (d) and (e)**

13 Repeal the paragraphs, substitute:

14 (c) grapes research levy.

15 **156 Subsection 39ZL(2)**

16 Omit “Corporation” (wherever occurring), substitute “Authority”.

17 **157 Paragraph 40K(1)(a)**

18 Omit “Corporation”, substitute “Authority”.

19 **158 Subsection 40Y(2)**

20 Omit “*Wine Australia Corporation Act 1980*” (wherever occurring),
21 substitute “*Australian Grape and Wine Authority Act 2013*”.

22 **159 Subsection 40Z(2)**

23 Omit “Chairperson of the Corporation”, substitute “Chair of the
24 Authority”.

25 **160 Section 40ZAC**

26 Omit “Corporation” (wherever occurring), substitute “Authority”.

- 1 **161 Subsection 40ZAI(2)**
2 Omit “Chairperson of the Corporation”, substitute “Chair of the
3 Authority”.
- 4 **162 Section 40ZAJ**
5 Omit “Corporation” (wherever occurring), substitute “Authority”.
- 6 **163 Subsection 40ZAP(2)**
7 Omit “Chairperson of the Corporation”, substitute “Chair of the
8 Authority”.
- 9 **164 Section 40ZA**
10 Omit “Corporation” (wherever occurring), substitute “Authority”.
- 11 **165 Paragraph 40ZB(e)**
12 Omit “Corporation”, substitute “Authority”.
- 13 **166 Section 40ZD**
14 Omit “Corporation” (wherever occurring), substitute “Authority”.
- 15 **167 Section 41A (heading)**
16 Omit “Corporation etc.”, substitute “Geographical Indications
17 Committee etc.”.
- 18 **168 Paragraph 41A(1)(a)**
19 Repeal the paragraph.
- 20 **169 Paragraph 41A(1)(c)**
21 Omit “member of the Corporation”, substitute “director of the
22 Authority”.
- 23 **170 Subsection 41A(5)**
24 Omit “Corporation”, substitute “Authority”.
- 25 **171 Subsection 43(1)**
26 Omit “Corporation”, substitute “Authority”.

1 **172 Subsection 43(1)**

2 Omit “common”.

3 **173 Subsections 43(2) and (3)**

4 Omit “Corporation”, substitute “Authority”.

5 **174 Paragraph 44AB(3)(a)**

6 Omit “Corporation”, substitute “Authority”.

7 **175 Section 46**

8 Omit “Corporation” (wherever occurring), substitute “Authority”.

9 **176 Part VIII**

10 Repeal the Part.

11 **177 Paragraph 2(1)(a) of the Schedule**

12 Omit “Chairperson of the Corporation in accordance with a resolution
13 of the Corporation”, substitute “Chair of the Authority in accordance
14 with a resolution of the Authority”.

15 **178 Paragraphs 2(1)(b) and (c) of the Schedule**

16 Omit “Chairperson of the Corporation”, substitute “Chair of the
17 Authority”.

18 **179 Clauses 3, 4 and 6 of the Schedule**

19 Omit “Chairperson of the Corporation” (wherever occurring), substitute
20 “Chair of the Authority”.

21 **180 Clause 7 of the Schedule**

22 Omit “Corporation” (wherever occurring), substitute “Authority”.

23 **181 Subclause 8(1) of the Schedule**

24 Omit “Chairperson of the Corporation”, substitute “Chair of the
25 Authority”.

26 **182 Clauses 9 and 11 of the Schedule**

27 Omit “Corporation” (wherever occurring), substitute “Authority”.

1 **183 Clause 12 of the Schedule (heading)**

2 Omit “Corporation’s”, substitute “Authority’s”.

3 **184 Clause 12 of the Schedule**

4 Omit “Corporation” (wherever occurring), substitute “Authority”.

5 **185 Clause 12 of the Schedule**

6 Omit “section 63H of the *Audit Act 1901*”, substitute “section 9 of the
7 *Commonwealth Authorities and Companies Act 1997*”.

1 **Schedule 2—Transitional provisions**

2 **Part 1—Introduction**

3 **1 Definitions**

4 In this Schedule:

5 ***asset*** means:

- 6 (a) any legal or equitable estate or interest in real or personal
7 property, whether actual, contingent or prospective; and
8 (b) any right, power, privilege or immunity, whether actual,
9 contingent or prospective.

10 ***assets official***, in relation to an asset other than land, means the person
11 or authority who:

- 12 (a) under a law of the Commonwealth, a State or a Territory; or
13 (b) under a trust instrument; or
14 (c) otherwise;

15 has responsibility for keeping a register in relation to assets of the kind
16 concerned.

17 ***final reporting period*** means the financial year ending immediately
18 before the transition time.

19 ***land*** means any legal or equitable estate or interest in real property,
20 whether actual, contingent or prospective.

21 ***land registration official***, in relation to land, means the Registrar of
22 Titles or other proper officer of the State or Territory in which the land
23 is situated.

24 ***liability*** means any liability, duty or obligation, whether actual,
25 contingent or prospective.

26 ***transition time*** means the commencement of Part 2 of Schedule 1.

1 **Part 2—Establishment of the Australian Grape and**
2 **Wine Authority etc.**

3 **2 Consultants to assist with preparations**

4 *Eligible director*

- 5 (1) For the purposes of this item, a person is an *eligible director* if the
6 person is appointed as a director of the Australian Grape and Wine
7 Authority before the transition time in accordance with section 4 of the
8 *Acts Interpretation Act 1901*.

9 *Consultants*

- 10 (2) The Minister may, on behalf of the Commonwealth, engage eligible
11 directors as consultants to assist with preparations for the establishment
12 of the Australian Grape and Wine Authority.
- 13 (3) The Minister may, on behalf of the Commonwealth, engage persons
14 having suitable qualifications and experience as consultants to assist
15 with preparations for the engagement by the Australian Grape and Wine
16 Authority of a person to be its principal employee (however described).
- 17 (4) The Minister must not engage a consultant under subitem (3) unless the
18 Minister does so at the request of the consultants mentioned in
19 subitem (2).
- 20 (5) The consultants mentioned in subitems (2) and (3) are to be engaged on
21 the terms and conditions that the Minister determines in writing.
- 22 (6) The daily rate of remuneration payable to a consultant engaged under
23 this item must not exceed the maximum daily rate of remuneration
24 payable to a member of the Wine Australia Corporation Selection
25 Committee.
- 26 (7) The travel allowances payable to a consultant engaged under this item
27 must not exceed the maximum travel allowances payable to a member
28 of the Wine Australia Corporation Selection Committee.

1 **3 Reimbursement of consultant expenses**

2 After the transition time, the Australian Grape and Wine Authority must
3 pay to the Commonwealth amounts equal to the expenses incurred by
4 the Commonwealth (whether before or after the transition time) in
5 relation to the engagement of consultants under item 2.

6 **4 Wine Australia Corporation to assist with preparations**

- 7 (1) The functions of the Wine Australia Corporation include the function of
8 assisting with preparations for the establishment of the Australian Grape
9 and Wine Authority.
- 10 (2) Despite anything in the *Wine Australia Corporation Act 1980*, money of
11 the Wine Australia Corporation may be applied in payment or discharge
12 of the expenses, charges, obligations and liabilities incurred or
13 undertaken by the Wine Australia Corporation in, or in connection with,
14 the performance of the function conferred by subitem (1).
- 15 (3) Subsection 3(2) of the *Wine Australia Corporation Act 1980* does not
16 apply in relation to the performance of the function conferred by
17 subitem (1).

18 **5 Grape and Wine Research and Development Corporation to
19 assist with preparations**

20 The functions of the Grape and Wine Research and Development
21 Corporation include assisting with preparations for the establishment of
22 the Australian Grape and Wine Authority.

23 Note: Paragraph 33(1)(b) of the *Primary Industries and Energy Research and Development*
24 *Act 1989* allows the Grape and Wine Research and Development Corporation to spend
25 its money in the performance of its functions.

26 **6 Wine Australia Corporation to pay 50% of the expenses of
27 the Authority Selection Committee**

- 28 (1) The Wine Australia Corporation must pay 50% of the expenses,
29 charges, obligations and liabilities incurred or undertaken before the
30 transition time by:
31 (a) the Presiding Member of the Australian Grape and Wine
32 Authority Selection Committee; or
33 (b) the Australian Grape and Wine Authority Selection
34 Committee;
-

1 in or in connection with the performance of the functions, or the
2 exercise of the powers, of the Australian Grape and Wine Authority
3 Selection Committee under the *Wine Australia Corporation Act 1980*.

4 (2) Despite anything in the *Wine Australia Corporation Act 1980*, money of
5 the Wine Australia Corporation may be applied in making payments
6 that the Wine Australia Corporation is required to make under
7 subitem (1).

8 **7 Grape and Wine Research and Development Corporation to** 9 **pay 50% of the expenses of the Authority Selection** 10 **Committee**

11 (1) The Grape and Wine Research and Development Corporation must pay
12 50% of the expenses, charges, obligations and liabilities incurred or
13 undertaken before the transition time by:

14 (a) the Presiding Member of the Australian Grape and Wine
15 Authority Selection Committee; or

16 (b) the Australian Grape and Wine Authority Selection
17 Committee;

18 in or in connection with the performance of the functions, or the
19 exercise of the powers, of the Australian Grape and Wine Authority
20 Selection Committee under the *Wine Australia Corporation Act 1980*.

21 (2) Despite anything in the *Primary Industries and Energy Research and*
22 *Development Act 1989*, money of the Grape and Wine Research and
23 Development Corporation may be applied in making payments that the
24 Grape and Wine Research and Development Corporation is required to
25 make under subitem (1).

26 **8 Appointment process for the first directors of the** 27 **Australian Grape and Wine Authority**

28 *Scope*

29 (1) This item applies to the appointments of persons as directors (other than
30 the Chair) of the Australian Grape and Wine Authority if the
31 appointments are to be made before the transition time in accordance
32 with section 4 of the *Acts Interpretation Act 1901*.

1 *Period of appointment*

- 2 (2) The period specified in the instrument of appointment must end before
3 1 July 2015.

4 **12 Continuity of initial appointments of directors of the**
5 **Australian Grape and Wine Authority**

6 *Scope*

- 7 (1) This item applies to the appointment of a person as a director of the
8 Australian Grape and Wine Authority if the period specified in the
9 instrument of appointment begins before 1 July 2015.

10 *Continuity*

- 11 (2) If the appointment is to be made before the transition time in
12 accordance with section 4 of the *Acts Interpretation Act 1901*:
13 (a) the Minister; and
14 (b) if subsection 14(4) of the *Australian Grape and Wine*
15 *Authority Act 2013* (as amended by Schedule 1 to this Act)
16 applies to the appointment—the Australian Grape and Wine
17 Authority Selection Committee;
18 must have regard to the desirability of ensuring that:
19 (c) the person is a member of the Wine Australia Corporation
20 when the appointment is made; or
21 (d) the person is a director of the Grape and Wine Research and
22 Development Corporation when the appointment is made.
- 23 (3) If the appointment is to be made after the transition time:
24 (a) the Minister; and
25 (b) if subsection 14(4) of the *Australian Grape and Wine*
26 *Authority Act 2013* (as amended by Schedule 1 to this Act)
27 applies to the appointment—the Australian Grape and Wine
28 Authority Selection Committee;
29 must have regard to the desirability of ensuring that:
30 (c) the person was a member of the Wine Australia Corporation
31 immediately before the transition time; or

Schedule 2 Transitional provisions

Part 2 Establishment of the Australian Grape and Wine Authority etc.

- 1 (d) the person was a director of the Grape and Wine Research
2 and Development Corporation immediately before the
3 transition time.

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

2 **13 Vesting of assets of the Wine Australia Corporation or the**
3 **Grape and Wine Research and Development**
4 **Corporation**

- 5 (1) This item applies to the assets of the Wine Australia Corporation or the
6 Grape and Wine Research and Development Corporation immediately
7 before the transition time.
- 8 (2) At the transition time, the assets cease to be assets of the Wine Australia
9 Corporation or the Grape and Wine Research and Development
10 Corporation and become assets of the Australian Grape and Wine
11 Authority without any conveyance, transfer or assignment. The
12 Australian Grape and Wine Authority becomes the successor in law in
13 relation to the assets.

14 **14 Vesting of liabilities of the Wine Australia Corporation or**
15 **the Grape and Wine Research and Development**
16 **Corporation**

- 17 (1) This item applies to the liabilities of the Wine Australia Corporation or
18 the Grape and Wine Research and Development Corporation
19 immediately before the transition time.
- 20 (2) At the transition time, the liabilities cease to be liabilities of the Wine
21 Australia Corporation or the Grape and Wine Research and
22 Development Corporation and become liabilities of the Australian
23 Grape and Wine Authority without any conveyance, transfer or
24 assignment. The Australian Grape and Wine Authority becomes the
25 successor in law in relation to the liabilities.

26 **15 Transfers of land may be registered**

- 27 (1) This item applies if:
28 (a) any land vests in the Australian Grape and Wine Authority
29 under this Part; and
30 (b) there is lodged with a land registration official a certificate
31 that:
32 (i) is signed by the Minister; and

- 1 (ii) identifies the land, whether by reference to a map or
2 otherwise; and
3 (iii) states that the land has become vested in the Australian
4 Grape and Wine Authority under this Part.
- 5 (2) The land registration official may:
6 (a) register the matter in a way that is the same as, or similar to,
7 the way in which dealings in land of that kind are registered;
8 and
9 (b) deal with, and give effect to, the certificate.
- 10 (3) A certificate under paragraph (1)(b) is not a legislative instrument.

11 **16 Certificates relating to vesting of assets other than land**

- 12 (1) This item applies if:
13 (a) any asset other than land vests in the Australian Grape and
14 Wine Authority under this Part; and
15 (b) there is lodged with an assets official a certificate that:
16 (i) is signed by the Minister; and
17 (ii) identifies the asset; and
18 (iii) states that the asset has become vested in the Australian
19 Grape and Wine Authority under this Part.
- 20 (2) The assets official may:
21 (a) deal with, and give effect to, the certificate as if it were a
22 proper and appropriate instrument for transactions in relation
23 to assets of that kind; and
24 (b) make such entries in the register as are necessary having
25 regard to the effect of this Part.
- 26 (3) A certificate under paragraph (1)(b) is not a legislative instrument.

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

2 **17 Transitional—acts of the Wine Australia Corporation or**
3 **the Grape and Wine Research and Development**
4 **Corporation to be attributed to the Australian Grape**
5 **and Wine Authority**

- 6 (1) This item applies to anything done by, or in relation to, the Wine
7 Australia Corporation or the Grape and Wine Research and
8 Development Corporation before the transition time.
- 9 (2) After the transition time, the thing has effect as if it had been done by,
10 or in relation to, the Australian Grape and Wine Authority.

11 **18 Substitution of the Australian Grape and Wine Authority**
12 **as a party to certain pending proceedings**

- 13 (1) This item applies if any proceedings to which the Wine Australia
14 Corporation or the Grape and Wine Research and Development
15 Corporation was a party were pending in any court or tribunal
16 immediately before the transition time.
- 17 (2) The Australian Grape and Wine Authority is substituted for the Wine
18 Australia Corporation or the Grape and Wine Research and
19 Development Corporation, from the transition time, as a party to the
20 proceedings.

21 **19 Transitional—transfer of records to the Australian Grape**
22 **and Wine Authority**

- 23 (1) This item applies to any records or documents that were in possession
24 of the Wine Australia Corporation or the Grape and Wine Research and
25 Development Corporation immediately before the transition time.
- 26 (2) The records and documents are to be transferred to the Australian Grape
27 and Wine Authority after the transition time.
- 28 Note: The records and documents are Commonwealth records for the purposes of the *Archives*
29 *Act 1983*.

20 Transitional—transfer of Ombudsman investigations

If:

- (a) before the transition time, a complaint was made to the Ombudsman, or the Ombudsman began an investigation, under the *Ombudsman Act 1976* in relation to an action taken by the Wine Australia Corporation or the Grape and Wine Research and Development Corporation; and
- (b) immediately before the transition time, the Ombudsman had not finally disposed of the matter in accordance with the *Ombudsman Act 1976*;

the *Ombudsman Act 1976* applies after the transition time as if that action had been taken by the Australian Grape and Wine Authority.

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

(1) If:

- (a) an instrument was in force immediately before the transition time; and
- (b) a reference is made in the instrument to the Wine Australia Corporation or the Grape and Wine Research and Development Corporation; and
- (c) the instrument is an instrument covered by one or more of the following subparagraphs:
 - (i) an instrument that was made by the Wine Australia Corporation or the Grape and Wine Research and Development Corporation;
 - (ii) an instrument to which the Wine Australia Corporation or the Grape and Wine Research and Development Corporation was a party;
 - (iii) an instrument that was given to, or in favour of, the Wine Australia Corporation or the Grape and Wine Research and Development Corporation;
 - (iv) an instrument under which any right or liability accrues or may accrue to the Wine Australia Corporation or the Grape and Wine Research and Development Corporation;

- 1 (v) any other instrument in which a reference is made to the
2 Wine Australia Corporation or the Grape and Wine
3 Research and Development Corporation;

4 the reference has effect after the transition time as if it were a reference
5 to the Australian Grape and Wine Authority.

6 (2) In this item:

7 ***exempt instrument*** means:

- 8 (a) an Act; or
9 (b) an instrument made under this Act; or
10 (c) the *Long Service Leave (Commonwealth Employees)*
11 *Regulations 1957*.

12 ***instrument***:

- 13 (a) includes:
14 (i) a contract, deed, undertaking or agreement; and
15 (ii) a notice, authority, order or instruction; and
16 (iii) an instrument made under an Act or under regulations;
17 but
18 (b) does not include an exempt instrument.

19 **22 Research and development agreements**

20 (1) If:

- 21 (a) an agreement was entered into by the Grape and Wine
22 Research and Development Corporation under section 13 of
23 the *Primary Industries and Energy Research and*
24 *Development Act 1989*; and
25 (b) the agreement was in force immediately before the transition
26 time;

27 then, after the transition time, the agreement has effect as if it had been
28 entered into by the Australian Grape and Wine Authority under
29 section 10A of the *Australian Grape and Wine Authority Act 2013* (as
30 amended by Schedule 1 to this Act).

31 (2) If:

- 32 (a) an agreement was entered into by the Grape and Wine
33 Research and Development Corporation under section 14 of

1 **Part 5—Reporting obligations**

2 **24 Final annual report of the Wine Australia Corporation**

3 (1) The directors of the Australian Grape and Wine Authority must prepare
4 a report in accordance with Schedule 1 to the *Commonwealth*
5 *Authorities and Companies Act 1997* for the Wine Australia
6 Corporation for the final reporting period.

7 (2) The report must include the material described in section 38 of the *Wine*
8 *Australia Corporation Act 1980* as in force immediately before the
9 transition time.

10 (3) Schedule 1 to the *Commonwealth Authorities and Companies Act 1997*,
11 and the Finance Minister's Orders referred to in that Schedule, apply in
12 relation to the report as if:

13 (a) references in that Schedule, or those Orders, to the directors
14 were references to the directors of the Australian Grape and
15 Wine Authority; and

16 (b) references in that Schedule, or those Orders, to an annual
17 report were references to the report; and

18 (c) references in that Schedule, or those Orders, to a financial
19 year were references to the final reporting period.

20 (4) The directors of the Australian Grape and Wine Authority must give the
21 report to the Minister by the 15th day of the fourth month after the end
22 of the final reporting period. The Minister may grant an extension of
23 time in special circumstances.

24 (5) The Minister must table the report in each House of the Parliament as
25 soon as practicable.

26 (6) The Australian Grape and Wine Authority must publish the report on
27 the Authority's website as soon as practicable after the report is tabled
28 in the House of Representatives.

29 **25 Final annual report of the Grape and Wine Research and**
30 **Development Corporation**

31 (1) The directors of the Australian Grape and Wine Authority must prepare
32 a report in accordance with Schedule 1 to the *Commonwealth*

- 1 (a) subitem (1) of this item were a civil penalty provision
2 specified in clause 1 of that Schedule; and
3 (b) subparagraphs 3(1)(b)(i) and (ii), clauses 4 and 5,
4 subclause 6(2) and paragraph 11(c) of that Schedule were
5 omitted; and
6 (c) the reference to “or a compensation order” in subclause 6(1)
7 were omitted.
- 8 (3) If a contravention of a final annual reporting requirement consists of an
9 omission from the financial statements, it is a defence if the defendant
10 proves that the information omitted was immaterial and did not affect
11 the giving of a true and fair view of the matters required by the Finance
12 Minister’s Orders to be included in the statements.
- 13 (4) In this item:
14 ***final annual reporting requirement*** means subitem 24(1), (2) or (4) or
15 25(1), (2) or (4) of this Schedule.

1 **Part 6—Employees**

2 **27 Terms and conditions of employment**

- 3 (1) For the purposes of this item, a person is a *transferring employee* if the
4 person was employed by the Wine Australia Corporation or the Grape
5 and Wine Research and Development Corporation immediately before
6 the transition time.
- 7 (2) At the transition time, a transferring employee:
8 (a) ceases to be an employee of the Wine Australia Corporation
9 or the Grape and Wine Research and Development
10 Corporation; and
11 (b) becomes an employee of the Australian Grape and Wine
12 Authority.
- 13 (3) A transferring employee is taken to have been engaged by the
14 Australian Grape and Wine Authority on the same terms and conditions
15 as those that applied to the transferring employee, immediately before
16 the transition time, as an employee of the Wine Australia Corporation or
17 the Grape and Wine Research and Development Corporation.
- 18 (4) This item does not prevent the terms and conditions of a transferring
19 employee's employment after the transition time from being varied:
20 (a) in accordance with those terms and conditions; or
21 (b) by or under a law, award, determination or agreement.
- 22 (5) A transferring employee is not entitled to receive any payment or other
23 benefit merely because he or she stopped being an employee of the
24 Wine Australia Corporation or the Grape and Wine Research and
25 Development Corporation as a result of this item.
- 26 (6) In this item:
27 *terms and conditions* means terms and conditions that are set out in:
28 (a) a contract of employment; or
29 (b) a workplace instrument (within the meaning of the *Fair Work*
30 *Act 2009*).
31 *vary*, in relation to terms and conditions, includes:
32 (a) omit any of those terms and conditions; or

- 1 (b) add to those terms and conditions; or
2 (c) substitute new terms or conditions for any of those terms and
3 conditions.

4 **28 Accrued entitlements**

- 5 (1) This item applies to a person if:
6 (a) the person was employed by the Wine Australia Corporation
7 or the Grape and Wine Research and Development
8 Corporation immediately before the transition time; and
9 (b) at the transition time, the person becomes an employee of the
10 Australian Grape and Wine Authority.
- 11 (2) The person is taken to have accrued an entitlement to benefits, in
12 connection with the person's employment with the Australian Grape
13 and Wine Authority, that is equivalent to the entitlement that the person
14 had as an employee of the Wine Australia Corporation or the Grape and
15 Wine Research and Development Corporation immediately before the
16 transition time.
- 17 (3) The service of the person as an employee of the Wine Australia
18 Corporation or the Grape and Wine Research and Development
19 Corporation is taken, for all purposes, to have been continuous with his
20 or her service as an employee of the Australian Grape and Wine
21 Authority.

22 **29 Safety, Rehabilitation and Compensation Act 1988—**
23 **rehabilitation provisions**

- 24 (1) This item applies if, before the transition time, an employee of the Wine
25 Australia Corporation or the Grape and Wine Research and
26 Development Corporation suffered an injury resulting in an incapacity
27 for work or an impairment.
- 28 (2) Sections 36, 37, 38, 39, 41 and 41A of the *Safety, Rehabilitation and*
29 *Compensation Act 1988* apply after the transition time, in relation to the
30 injury, as if the employee were employed by the Australian Grape and
31 Wine Authority.
- 32 Note: The main effect of subitem (2) is that sections 36, 37, 38, 39, 41 and 41A of the *Safety,*
33 *Rehabilitation and Compensation Act 1988* apply in relation to the employee's injury as
34 if the principal officer of the Australian Grape and Wine Authority were the
35 rehabilitation authority.

Schedule 2 Transitional provisions

Part 6 Employees

- 1 (3) After the transition time, the Australian Grape and Wine Authority is,
2 for the purposes of section 40 of the *Safety, Rehabilitation and*
3 *Compensation Act 1988*, taken to be the relevant employer of the
4 employee.

1 **Part 7—Finance**

2 **30 Payments to the Authority**

3 Paragraphs 32(aa) to (ah) of the *Australian Grape and Wine Authority*
4 *Act 2013* (as amended by Schedule 1 to this Act) apply to:

- 5 (a) an amount received by the Commonwealth after the
6 transition time; and
7 (b) an amount received by the Commonwealth before the
8 transition time, where no payment was made by the
9 Commonwealth in respect of that amount before the
10 transition time to:
11 (i) the Wine Australia Corporation; or
12 (ii) the Grape and Wine Research and Development
13 Corporation.

14 **31 Payments by the Authority to the Commonwealth**

15 (1) Subsections 33(3) and (4) of the *Australian Grape and Wine Authority*
16 *Act 2013* (as amended by Schedule 1 to this Act) apply to:

- 17 (a) a refund made after the transition time; and
18 (b) a refund made before the transition time, where the amount
19 so refunded was not recovered by the Commonwealth from
20 the Wine Australia Corporation before the transition time.

21 (2) Subsections 33(5) and (6) of the *Australian Grape and Wine Authority*
22 *Act 2013* (as amended by Schedule 1 to this Act) apply to:

- 23 (a) a refund made after the transition time; and
24 (b) a refund made before the transition time, where the amount
25 so refunded was not recovered by the Commonwealth from
26 the Grape and Wine Research and Development Corporation
27 before the transition time.

28 **32 Commonwealth to be paid levy expenses**

29 Section 36 of the *Australian Grape and Wine Authority Act 2013* (as
30 amended by Schedule 1 to this Act) applies to:

- 31 (a) an expense incurred after the transition time; and
32 (b) an expense incurred before the transition time, where the
33 expense was not reimbursed by:
-

- 1 (i) the Wine Australia Corporation; or
2 (ii) the Grape and Wine Research and Development
3 Corporation;
4 before the transition time.

5 **33 Application of money transferred from Grape and Wine**
6 **Research and Development Corporation etc.**

7 *Protected money and protected investments*

- 8 (1) For the purposes of this item:
9 (a) if, at the transition time, money of the Grape and Wine
10 Research and Development Corporation becomes money of
11 the Australian Grape and Wine Authority, the money is
12 *protected money*; and
13 (b) if, at the transition time, an investment of the Grape and
14 Wine Research and Development Corporation becomes an
15 investment of the Australian Grape and Wine Authority, the
16 investment is a *protected investment*.

17 Note: See item 13 in relation to transfer of assets.

18 *Application of protected money and protected investments etc.*

- 19 (2) After the transition time, the Australian Grape and Wine Authority may
20 apply:
21 (a) protected money; or
22 (b) money that is derived from a protected investment; or
23 (c) money that represents the proceeds of the realisation of a
24 protected investment; or
25 (d) money that is attributable, directly or indirectly, to money
26 covered by paragraph (a), (b) or (c);
27 only for the purposes mentioned in subsection 35(1A) of the *Australian*
28 *Grape and Wine Authority Act 2013* (as amended by Schedule 1 to this
29 Act).
30 (3) Subitem (2) does not prevent:
31 (a) the investment of surplus money of the Australian Grape and
32 Wine Authority under section 19 of the *Commonwealth*
33 *Authorities and Companies Act 1997*; or

1 (b) the reinvestment of the proceeds of an investment.

2 **34 Funding of grape or wine research and development**
3 **activities before first annual operational plan is**
4 **developed**

5 Until the first annual operational plan is developed by the Australian
6 Grape and Wine Authority, paragraphs 35(1)(ac) and 35(1A)(a) of the
7 *Australian Grape and Wine Authority Act 2013* (as amended by
8 Schedule 1 to this Act) have effect as if the words “included in the
9 broad groupings of grape or wine research and development activities
10 specified in an annual operational plan in force when the relevant
11 payments are made” were omitted.

1 **Part 8—Annual general meetings and accountability**

2 **35 Annual general meeting in the first financial year**

3 (1) Section 29X of the *Australian Grape and Wine Authority Act 2013* (as
4 amended by Schedule 1 to this Act) does not apply to an annual general
5 meeting convened in the financial year beginning on 1 July 2014.

6 (2) The purpose of an annual general meeting convened in the financial
7 year beginning on 1 July 2014 is to provide an opportunity for eligible
8 producers:

9 (a) to consider:

- 10 (i) the report for the Wine Australia Corporation for the
11 final reporting period prepared under item 24; and
12 (ii) the report for the Grape and Wine Research and
13 Development Corporation for the final reporting period
14 prepared under item 25; and

15 (b) to receive an address by the Chair of the Australian Grape
16 and Wine Authority with respect to:

- 17 (i) the performance of the Wine Australia Corporation in
18 the final reporting period; and
19 (ii) the performance of the Grape and Wine Research and
20 Development Corporation in the final reporting period;
21 and
22 (iii) the economic outlook for the grape industry and the
23 wine industry, and the intended activities of the
24 Australian Grape and Wine Authority, in the year next
25 following the final reporting period; and

26 (c) to question the directors of the Australian Grape and Wine
27 Authority concerning any aspect of:

- 28 (i) the activities of the Wine Australia Corporation during
29 the final reporting period; and
30 (ii) the activities of the Grape and Wine Research and
31 Development Corporation during the final reporting
32 period; and
33 (iii) the intended activities of the Australian Grape and Wine
34 Authority; and

- 1 (d) to debate, and vote upon, any motion relating to a matter
2 within the responsibilities of the Australian Grape and Wine
3 Authority.

4 **36 Initial accountability to representative organisations to**
5 **relate to the final annual report of the Grape and Wine**
6 **Research and Development Corporation**

- 7 (1) As soon as practicable after the report for the Grape and Wine Research
8 and Development Corporation for the final reporting period prepared
9 under item 25 has been given to the Minister, the Chair of the
10 Australian Grape and Wine Authority must:
11 (a) provide copies of the report to each representative
12 organisation; and
13 (b) make arrangements with each of those organisations to
14 attend:
15 (i) the organisation's annual conference; or
16 (ii) a meeting of the organisation's executive;
17 for the purposes set out in subitem (2).
- 18 (2) The purposes mentioned in paragraph (1)(b) are as follows:
19 (a) to enable the report to be considered;
20 (b) to enable the Chair of the Australian Grape and Wine
21 Authority to deliver an address in relation to:
22 (i) the activities of the Grape and Wine Research and
23 Development Corporation during the final reporting
24 period; and
25 (ii) the Authority's intended activities in the financial year
26 next following the final reporting period;
27 (c) to enable the Chair of the Australian Grape and Wine
28 Authority to be questioned about those activities.

1 **Part 9—Miscellaneous**

2 **37 Exemption from stamp duty and other State or Territory**
3 **taxes**

- 4 (1) No stamp duty or other tax is payable under a law of a State or a
5 Territory in respect of an exempt matter, or anything connected with an
6 exempt matter.
- 7 (2) For the purposes of this item, an *exempt matter* is:
8 (a) the vesting of an asset or liability under this Schedule; or
9 (b) the operation of this Schedule in any other respect.
- 10 (3) The Minister may certify in writing:
11 (a) that a specified matter is an exempt matter; or
12 (b) that a specified thing was connected with a specified exempt
13 matter.
- 14 (4) In all courts, and for all purposes (other than for the purposes of
15 criminal proceedings), a certificate under subitem (3) is prima facie
16 evidence of the matters stated in the certificate.

17 **38 Constitutional safety net**

- 18 (1) If the operation of this Schedule would result in an acquisition of
19 property (within the meaning of paragraph 51(xxxi) of the Constitution)
20 from a person otherwise than on just terms (within the meaning of that
21 paragraph), the Commonwealth is liable to pay a reasonable amount of
22 compensation to the person.
- 23 (2) If the Commonwealth and the person do not agree on the amount of the
24 compensation, the person may institute proceedings in a court of
25 competent jurisdiction for the recovery from the Commonwealth of
26 such reasonable amount of compensation as the court determines.

27 **39 Certificates taken to be authentic**

28 A document that appears to be a certificate made or issued under a
29 particular provision of this Schedule:

- 30 (a) is taken to be such a certificate; and
31 (b) is taken to have been properly given;
-

1 unless the contrary is established.

2 **40 Delegation by Minister**

3 (1) The Minister may, by writing, delegate all or any of his or her powers
4 and functions under this Schedule to a person.

5 (2) The delegate must be:

6 (a) the Secretary of the Department; or

7 (b) an SES employee, or acting SES employee, in the
8 Department.

9 Note: *SES employee* and *acting SES employee* are defined in the *Acts Interpretation Act*
10 *1901*.

11 (3) In exercising powers or functions under a delegation, the delegate must
12 comply with any directions of the Minister.

13 (4) Subitem (1) does not apply to a power to make, vary or revoke a
14 legislative instrument.

15 **41 Transitional rules**

16 The Minister may, by legislative instrument, make rules in relation to
17 transitional matters arising out of the amendments and repeals made by
18 Schedule 1.
19