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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

**AUSTRALIAN GRAPE AND WINE AUTHORITY AMENDMENT (WINE
AUSTRALIA) BILL 2017**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Assistant Minister for Agriculture and Water Resources,
Senator the Hon. Anne Ruston)

AUSTRALIAN GRAPE AND WINE AUTHORITY AMENDMENT (WINE AUSTRALIA) BILL 2017

GENERAL OUTLINE

The Australian Grape and Wine Authority Amendment (Wine Australia) Bill 2017 (the Bill) will make amendments to the *Australian Grape and Wine Authority Act 2013* (the Act). These amendments will enable the Authority established by section 6 of the Act to implement, facilitate and administer programs for cider and in relation to international wine tourism, and to administer grant programs in relation to wine, as defined by section 33-1 of the *A New Tax System (Wine Equalisation Tax) Act 1999* (the WET Act). The amendments will also formally change the name of the Authority.

In 2016, the Australian Government announced the introduction of a \$50 million Export and Regional Wine Support Package (the Wine Support Package) and a \$10 million Wine Tourism and Cellar Door Grant (the Cellar Door Grant). Both the Wine Support Package and the Cellar Door Grant have been introduced to assist the wine industry to transition to reforms of the wine equalisation tax (WET), including a reduction of the annual WET rebate from \$500,000 to \$350,000.

The Australian Government also decided that the Authority is best placed to deliver both the Wine Support Package and the Cellar Door Grant. However, under the Act, the functions of the Authority are currently restricted. Accordingly, amendments are required to enable the Authority to deliver these programs.

The Bill also seeks to align the legislated name of the Authority, currently the ‘Australian Grape and Wine Authority’, with the trading name of the Authority, ‘Wine Australia’.

The Bill will:

- enable the Authority to implement all program activities under the Wine Support Package, including for the purposes of cider and international wine tourism;
- enable the Authority to administer grant programs for wine (as defined by section 33-1 of the WET Act), including the Cellar Door Grant;
- change the name of the Authority from the ‘Australian Grape and Wine Authority’ to ‘Wine Australia’.

FINANCIAL IMPACT STATEMENT

The Bill will have no financial impact on the Australian Government Budget.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

The Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The full statement of compatibility with human rights is attached to this explanatory memorandum.

ACRONYMS, ABBREVIATIONS AND COMMONLY USED TERMS

AAT Act	<i>Administrative Appeals Tribunal Act 1975</i>
the Act	<i>Australian Grape and Wine Authority Act 2013</i>
AI Act	<i>Acts Interpretation Act 1901</i>
the Authority	the body corporate established by section 6 of the <i>Australian Grape and Wine Authority Act 2013</i>
Cellar Door Grant	the \$10 million Wine Tourism and Cellar Door Grant
FOI Act	<i>Freedom of Information Act 1982</i>
Minister	the Minister administering the <i>Australian Grape and Wine Authority Act 2013</i>
PI(C)C Act	<i>Primary Industries (Customs) Charges Act 1999</i>
PI(E)L Act	<i>Primary Industries (Excise) Levies Act 1999</i>
PILCC Act	<i>Primary Industries Levies and Charges Collection Act 1991</i>
WET	wine equalisation tax
WET Act	<i>A New Tax System (Wine Equalisation Tax) Act 1999</i>
Wine Support Package	the \$50 million Export and Regional Wine Support Package

NOTES ON CLAUSES

Preliminary

Clause 1 Short Title

Clause 1 provides for the short title of the Act to be the *Australian Grape and Wine Authority Amendment (Wine Australia) Act 2017*.

Clause 2 Commencement

Clause 2 provides for the commencement of each provision in the Bill, as set out in the table.

Subclause 2(1) provides that each provision of the Bill specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Item 1 in the table provides that the whole of the Bill commences on the day after the Bill receives the Royal Assent.

Subclause 2(2) provides that any information in column 3 of the table is not part of the Bill. Information may be inserted in column 3 of the table, or information in it may be edited, in any published version of the Bill.

Clause 3 Schedules

Clause 3 provides that legislation that is specified in a Schedule to the Bill is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Bill has effect according to its terms.

Schedule 1—Amendment of the Australian Grape and Wine Authority Act 2013

PART 1—MAIN AMENDMENTS

Overview

Part 1 of Schedule 1 to the Bill amends the Act to enable the Authority to implement, facilitate and administer programs for cider and in relation to international wine tourism, and to administer grant programs in relation to wine, as defined by section 33-1 of the WET Act. This Part also changes the name of the Authority to ‘Wine Australia’.

Australian Grape and Wine Authority Act 2013

Item 1 Title

Item 1 omits the reference to “**the Australian Grape and Wine Authority**” from the long title of the Act, and substitutes that reference with a reference to “**Wine Australia**”.

The long title of the Act currently states, “**An Act to establish the Australian Grape and Wine Authority, and for related purposes**”.

Item 1 is consequential to items 4 and 8 below, which make amendments to subsection 4(1) and section 6 of the Act to change the legislated name of the Authority from ‘Australian Grape and Wine Authority’ to ‘Wine Australia’. Accordingly, it is necessary to amend the long title of the Act to reflect the change of name of the Authority.

Item 2 Section 1

Item 2 amends section 1 of the Act to omit the reference to “*Australian Grape and Wine Authority*” from the short title of the Act, and substitute that reference with a reference to “*Wine Australia*”.

Section 1 of the Act currently provides that the Act may be cited as the *Australian Grape and Wine Authority Act 2013*.

Item 2 is consequential to items 4 and 8 below, which make amendments to subsection 4(1) and section 6 of the Act to change the legislated name of the Authority from ‘Australian Grape and Wine Authority’ to ‘Wine Australia’. Accordingly, it is necessary to amend the short title of the Act to reflect the change of name of the Authority.

The note to item 2 is merely included to assist the reader to understand the amendments made by item 2, and is not intended to be inserted in section 1 of the Act. The note states that item 2 amends the short title of the Act; if another amendment of the Act is described by reference to the Act’s previous short title (i.e. *Australian Grape and Wine Authority Act 2013*), that other amendment has effect after the commencement of this item as an amendment of the Act under its amended short title (i.e. *Wine Australia Act 2013*). Item 2 will commence on the day after the Bill receives the Royal Assent.

The note also directs the reader to section 10 of the AI Act, which provides that, where an Act contains a reference to a short title that is or was provided by law for the citation of another Act as originally enacted, or of another Act as amended, then:

- (a) the reference shall be construed as a reference to that other Act as originally enacted and as amended from time to time; and
- (b) where that other Act has been repealed and re-enacted, with or without modifications, the reference shall be construed as including a reference to the re-enacted Act as originally enacted and as amended from time to time; and
- (c) if a provision of the other Act is repealed and re-enacted (including where the other Act is repealed and re-enacted), with or without modifications, a reference to the repealed provision extends to any corresponding re-enacted provision.

Accordingly, section 10 of the AI Act ensures that any references to the *Australian Grape and Wine Authority Act 2013* that are not amended by this Bill can be read as references to the *Wine Australia Act 2013* after the commencement of this item. Further, this also ensures that, despite the change of title of the Act, the existing status quo is preserved and the minor amendment does not result in unintended consequences.

Item 3 After paragraph 3(a)

Item 3 amends section 3 of the Act to insert new paragraphs 3(aa) and (ab) after current paragraph 3(a) of the Act.

Section 3 of the Act currently provides that the objects of the Act are:

- (a) to support grape or wine research and development activities; and
- (b) to control the export of grape products from Australia; and
- (c) to promote the consumption and sale of grape products, both in Australia and overseas; and
- (d) to enable Australia to fulfil its obligations under prescribed wine-trading agreements and other international agreements.

New paragraph 3(aa) of the Act provides that the objects of the Act are to support the growth of the wine industry, and other industries that make wine (within the meaning of section 33-1 of the WET Act).

Section 33-1 of the WET Act defines the term *wine* to have the meaning given by Subdivision 31-A of Division 31 of Part 7 of the WET Act. Subdivision 31-A of Division 31 of Part 7 of the WET Act provides for the meaning of *wine* (section 31-1), *grape wine* (section 31-2), *grape wine product* (section 31-3), *fruit or vegetable wine* (section 31-4), *cider or perry* (section 31-5), *mead* (section 31-6), and *sake* (section 31-7), and also provides for requirements for types of wine (section 31-8) and how alcoholic content is to be measured (section 31-9).

In particular, subsection 31-1(1) of the WET Act provides that *wine* means grape wine, grape wine products, fruit or vegetable wine, cider or perry, mead, or sake. However, subsection 31-1(2) of the WET Act provides that *wine* does not include beverages that do not contain more than 1.15 per cent by volume of ethyl alcohol.

It is necessary to define wine by reference to the definition of *wine* in section 33-1 of the WET Act because the Cellar Door Grant will be made available to producers of *wine* who fall within the definition of that term in section 33-1 of the WET Act. This is consistent with the

policy intent of the Cellar Door Grant, which is to support wine producers to transition to the reforms of the WET rebate arrangements.

New paragraph 3(ab) of the Act provides that the objects of the Act are to support the growth of international wine tourism, and services, products and experiences that complement international wine tourism.

A definition of *international wine tourism* is inserted into subsection 4(1) of the Act by item 6 below. That definition provides that *international wine tourism* means tourism undertaken by international tourists in Australia for the purposes of, or relating to, tasting, consuming or purchasing wine.

Subsection 4(1) of the Act defines *wine* to mean an alcoholic beverage produced by the complete or partial fermentation of fresh grapes or products derived solely from fresh grapes, or both, and includes a grape product declared by the regulations made under section 46 of the Act to be wine for the purposes of the Act. There are currently no regulations made under section 46 of the Act that declare certain grape products to be wine for the purposes of the Act.

Item 3 seeks to expand the objects of the Act to give effect to the 2016 announcement by the Australian Government in relation to the introduction of the Wine Support Package and the Cellar Door Grant. These amendments will enable the Authority to deliver both the Wine Support Package and the Cellar Door Grant.

Item 4 Subsection 4(1) (definition of *Authority*)

Item 4 amends the definition of *Authority* in subsection 4(1) of the Act to omit the reference to “the Australian Grape and Wine Authority”, and substitute that reference with a reference to “the authority known as Wine Australia”.

Subsection 4(1) of the Act currently defines *Authority* to mean the Australian Grape and Wine Authority. The note to that definition also directs the reader to section 6 of the Act, which currently provides that the Australian Grape and Wine Authority is established by that section of the Act. The note to section 6 of the Act currently provides that, in the Act, *Authority* means the Australian Grape and Wine Authority, and also directs the reader to section 4 of the Act.

Item 4 seeks to align the legislated name of the Authority (‘Australian Grape and Wine Authority’) with its trading name (‘Wine Australia’). Item 4 complements item 8 below, which repeals current section 6 of the Act and inserts new section 6 of the Act to reflect the change of name of the Authority.

Item 5 Subsection 4(1) (definition of *Authority Selection Committee*)

Item 5 amends the definition of *Authority Selection Committee* in subsection 4(1) of the Act to omit the reference to “Australian Grape and Wine Authority”, and substitute that reference with a reference to “Wine Australia”.

Subsection 4(1) of the Act currently defines *Authority Selection Committee* to mean the Australian Grape and Wine Authority Selection Committee. Part IV of the Act establishes the *Authority Selection Committee* and provides for the functions of that Committee.

Item 5 is consequential to item 4 above and item 8 below, which make amendments to subsection 4(1) and section 6 of the Act to change the legislated name of the Authority from ‘Australian Grape and Wine Authority’ to ‘Wine Australia’.

Item 6 Subsection 4(1)

Item 6 amends subsection 4(1) of the Act to insert a definition of *international wine tourism*. That definition provides that *international wine tourism* means tourism undertaken by international tourists in Australia for the purposes of, or relating to, tasting, consuming or purchasing wine.

It is necessary to insert a definition of *international wine tourism* in subsection 4(1) of the Act to provide clarity and assistance to the reader for the purposes of interpreting new paragraph 3(ab) of the Act (as inserted by item 3 above), which provides that the objects of the Act are to support the growth of international wine tourism, and services, products and experiences that complement international wine tourism.

Item 6 is consequential to the amendments made by item 3 above and complements the amendments made by item 9 below.

Item 7 Part II (heading)

Item 7 repeals the current heading ‘**Part II—Australian Grape and Wine Authority**’ to Part II of the Act, and substitutes the new heading ‘**Part II—Wine Australia**’ to that Part.

Item 7 is consequential to item 4 above and item 8 below, which make amendments to subsection 4(1) and section 6 of the Act to change the legislated name of the Authority from ‘Australian Grape and Wine Authority’ to ‘Wine Australia’.

Item 8 Section 6

Item 8 repeals current section 6 of the Act, including the heading to that section, and substitutes a new section 6 of the Act with the new heading ‘**Wine Australia**’.

Section 6 of the Act is currently entitled ‘**Australian Grape and Wine Authority**’ and provides that the Australian Grape and Wine Authority is established by that section. The note to section 6 of the Act currently provides that, in the Act, *Authority* means the Australian Grape and Wine Authority, and also directs the reader to section 4 of the Act.

Subsection 4(1) of the Act currently defines *Authority* to mean the Australian Grape and Wine Authority. The note to that definition also directs the reader to section 6 of the Act. The definition of *Authority* in subsection 4(1) of the Act is amended by item 4 above to align the legislated name of the Authority (‘Australian Grape and Wine Authority’) with its trading name (‘Wine Australia’).

New subsection 6(1) of the Act provides that new section 6 of the Act applies to the body corporate that was established by section 6 of the Act as in force immediately before the commencement of new section 6 of the Act. New section 6 of the Act will commence on the day after the Bill receives the Royal Assent.

New subsection 6(2) of the Act provides that the body corporate referred to in new subsection 6(1) of the Act continues in existence by force of new section 6 of the Act as a body corporate, under and subject to the provisions of the Act, under the name Wine Australia.

Item 8 also inserts notes at the end of new subsection 6(2) of the Act. Note 1 to new subsection 6(2) of the Act provides that, in the Act, **Authority** means the authority known as Wine Australia, and also directs the reader to section 4 of the Act. Note 2 to new subsection 6(2) of the Act directs the reader to subsection 25B(1) of the AI Act, which provides that a body whose name is altered by an Act continues in existence under the new name so that its identity is not affected.

Importantly, paragraph 25B(1)(b) of the AI Act provides that, where an Act alters the name of a body (whether or not the body is incorporated) or alters the name of an office, then in any Act, in any instrument under an Act, in any award or other industrial determination or order or any industrial agreement, in any other order (whether executive, judicial or otherwise), in any contract, in any pleading in, or process issued in connection with, any legal or other proceedings or in any other instrument, a reference to the body or the office under the former name shall, except in relation to matters that occurred before the alteration took place, be construed as a reference to the body or the office under the new name.

The amendments made by item 8 are necessary to ensure that the change of name of the Authority does not affect the existing operations of the Authority or the current appointments of directors of the Authority. Subsection 25B(1) of the AI Act ensures that any references to the Australian Grape and Wine Authority that are not amended by this Bill can be read as references to Wine Australia after the commencement of this item and in relation to matters that arise after the commencement of this item. Further, this also ensures that, despite the change of name of the Authority, the existing status quo is preserved and the minor amendment does not result in unintended consequences.

Item 8 complements item 4 above, which amends the definition of **Authority** in subsection 4(1) of the Act to align the legislated name of the Authority (‘Australian Grape and Wine Authority’) with its trading name (‘Wine Australia’).

Item 9 After paragraph 7(e)

Item 9 amends section 7 of the Act to insert new paragraphs 7(ea) and (eb) after current paragraph 7(e) of the Act.

Section 7 of the Act currently provides for the functions of the Authority.

New paragraph 7(ea) of the Act provides that the Authority has the function of implementing, facilitating and administering programs, as directed by the Minister, in relation to:

- (i) wine; and
- (ii) cider (as defined by section 33-1 of the WET Act); and
- (iii) international wine tourism, and services, products and experiences that complement international wine tourism.

Subsection 4(1) of the Act defines **wine** to mean an alcoholic beverage produced by the complete or partial fermentation of fresh grapes or products derived solely from fresh grapes, or both, and includes a grape product declared by the regulations made under section 46 of the Act to be wine for the purposes of the Act. There are currently no regulations made under section 46 of the Act that declare certain grape products to be wine for the purposes of the Act.

Section 33-1 of the WET Act defines the term *cider (or perry)* to have the meaning given by section 31-5 of the WET Act. Section 31-5 of the WET Act provides that *cider or perry* is a beverage that:

- (a) is the product of the complete or partial fermentation of the juice or must of apples or pears; and
- (b) has not had added to it, at any time, any ethyl alcohol from any other source, except as specified in the regulations made under section 27-35 of the WET Act, and
- (c) has not had added to it, at any time, any liquor or substance (other than water or the juice or must of apples or pears) that gives colour or flavour, except as specified in the regulations made under section 27-35 of the WET Act; and
- (d) complies with any requirements of the regulations, made under section 27-35 of the WET Act for the purposes of section 31-8 of the WET Act, relating to cider or perry.

Paragraph 31-8(1)(d) of the WET Act provides that the regulations made under section 27-35 of the WET Act may specify requirements for cider or perry.

Item 6 above amends subsection 4(1) of the Act to insert a definition of *international wine tourism* to provide that *international wine tourism* means tourism undertaken by international tourists in Australia for the purposes of, or relating to, tasting, consuming or purchasing wine.

It is necessary to amend section 7 of the Act to insert new paragraph 7(ea) of the Act to enable the Authority to deliver all activities under the Wine Support Package. It is also necessary to define cider by reference to the definition of *cider* in section 33-1 of the WET Act because the Authority will be required to implement specific programs to support the cider industry under the Wine Support Package. The existing definition of *cider* in section 33-1 of the WET Act is the most appropriate definition to use in this context, given the policy linkages between the Wine Support Package and industry transitioning to the WET rebate reforms.

New paragraph 7(eb) of the Act provides that the Authority has the function of administering grant programs in relation to wine (as defined by section 33-1 of the WET Act), as directed by the Minister.

Section 33-1 of the WET Act defines the term *wine* to have the meaning given by Subdivision 31-A of Division 31 of Part 7 of the WET Act.

Subdivision 31-A of Division 31 of Part 7 of the WET Act provides for the meaning of *wine* (section 31-1), *grape wine* (section 31-2), *grape wine product* (section 31-3), *fruit or vegetable wine* (section 31-4), *cider or perry* (section 31-5), *mead* (section 31-6), and *sake* (section 31-7), and also provides for requirements for types of wine (section 31-8) and how alcoholic content is to be measured (section 31-9).

In particular, subsection 31-1(1) of the WET Act provides that *wine* means grape wine, grape wine products, fruit or vegetable wine, cider or perry, mead, or sake. However, subsection 31-1(2) of the WET Act provides that *wine* does not include beverages that do not contain more than 1.15 per cent by volume of ethyl alcohol.

It is necessary to amend section 7 of the Act to insert new paragraph 7(eb) of the Act to enable the Authority to administer grant programs, such as the Cellar Door Grant program. It is also necessary to define wine by reference to the definition of *wine* in section 33-1 of the

WET Act because the Cellar Door Grant will be made available to producers of *wine* who fall within the definition of that term in section 33-1 of the WET Act. This is consistent with the policy intent of the Cellar Door Grant, which is to support wine producers to transition to the reforms of the WET rebate arrangements.

There are two important and interrelated differences between new paragraph 7(ea) and new paragraph 7(eb) of the Act.

The first difference is that the use of the phrase ‘implement, facilitate and administer programs’ in new paragraph 7(ea) of the Act is intended to be broader than the phrase ‘administer grant programs’ in new paragraph 7(eb) of the Act. The phrase used in new paragraph 7(ea) of the Act is intended to encompass all expenditure on programs, including direct costs incurred by the Authority (e.g. staffing), the procurement of goods and services (e.g. engaging a consultant) and any grants activities (e.g. ad-hoc grants or grants programs). The phrase used in new paragraph 7(eb) of the Act is intended to have a narrow scope, referring only to the administration of grant programs and thereby excluding ad-hoc grants.

The second difference relates to the definition of *wine* that is adopted by new paragraph 7(ea) of the Act and new paragraph 7(eb) of the Act. The definition of *wine* that is used by new paragraph 7(ea) of the Act is the definition of *wine* provided for by subsection 4(1) of the Act. That definition is limited to wine that is produced from grapes or grape products. The definition of wine that is used by new paragraph 7(eb) of the Act is the definition of *wine* provided for by section 33-1 of the WET Act. That definition includes grape wine, grape wine product, fruit or vegetable wine, cider or perry, mead and sake.

These differentiations are necessary as, under the Wine Support Package, the Authority will be required to implement, facilitate and administer a range of programs specifically for grape wine and cider. Whereas, under the Cellar Door Grant, the Authority will be required to only administer a grant program for wine producers who fall within the broader definition of *wine* in section 33-1 of the WET Act.

Item 9 is consequential to item 3 above, which amends section 3 of the Act to expand the objects of the Act.

Item 10 After paragraph 7A(a)

Item 10 amends section 7A of the Act to insert new paragraph 7A(aa) after current paragraph 7A(a) of the Act.

Section 7A of the Act currently provides for the constitutional limits on the performance of functions by the Authority.

New paragraph 7A(aa) of the Act provides that the Authority may perform its functions only for purposes relating to bounties on the production or export of goods.

Paragraph 51(iii) of the Constitution provides that the Parliament shall, subject to the Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth.

It is necessary to expand the existing scope of section 7A of the Act to include the ‘bounties power’ in paragraph 51(iii) of the Constitution because this will be power under which the Authority administers the Cellar Door Grant.

Item 11 After section 7A

Item 11 inserts new section 7B after section 7A of the Act.

New section 7B of the Act is entitled ‘**Uniformity**’, and provides that a power conferred on any person by the Act must not be exercised in such a manner that bounty would not be uniform throughout the Commonwealth within the meaning of paragraph 51(iii) of the Constitution.

Paragraph 51(iii) of the Constitution provides that the Parliament shall, subject to the Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth.

Item 11 is consequential to item 10 above, which amends the constitutional limits on the performance of functions by the Authority (section 7A of the Act).

Item 12 Paragraphs 8(2)(i) and (j)

Item 12 amends section 8 of the Act to repeal current paragraphs 8(2)(i) and (j) of the Act.

Paragraph 8(2)(i) of the Act provides that, without limiting the generality of subsection 8(1) of the Act, the power of the Authority referred to in that subsection includes the power to enter into agreements under section 10A of the Act for the carrying out of grape or wine research and development activities by other persons.

Section 10A of the Act provides that the Authority may enter into an agreement with a person for the carrying out of grape or wine research and development activities by the person.

Paragraph 8(2)(j) of the Act provides that, without limiting the generality of subsection 8(1) of the Act, the power of the Authority referred to in that subsection includes the power to enter into agreements under section 10B of the Act for the carrying out of grape or wine research and development activities by the Authority and other persons.

Section 10B of the Act provides that the Authority may enter into an agreement (including a joint venture agreement or a partnership agreement) with a person for grape or wine research and development activities to be carried out by the Authority and the person.

Subsection 8(1) of the Act provides that, subject to the Act, the Authority has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

Item 12 is consequential to item 14 below, which makes amendments to section 10 of the Act. The amendments to section 10 of the Act mean that it is not necessary to retain current paragraphs 8(2)(i) and (j) of the Act.

Item 13 Subsection 8(2F)

Item 13 amends subsection 8(2F) of the Act to omit references to “*Australian Grape and Wine Authority*”, and substitute those references with “*Wine Australia*”.

Subsection 8(2F) of the Act currently provides that section 29 of the AAT Act has effect in relation to an application for review of a determination as if the following subsections were inserted after subsection 29(1) of the AAT Act:

‘(1AA) Despite paragraph 29(1)(d) and subsection 29(2) of the AAT Act, an application to the Administrative Appeals Tribunal for a determination made under paragraph 8(2)(aa), (ac) or (ad) of the *Australian Grape and Wine Authority Act 2013* must be made within 28 days after notice of the determination is published in accordance with subsection 8(2B) of that Act.

(1AB) Despite subsection 29(8) of the AAT Act, an application under subsection 29(7) of the AAT Act in respect of a determination made under paragraph 8(2)(aa), (ac) or (ad) of the *Australian Grape and Wine Authority Act 2013* must be made before the time fixed by subsection 29(1A) of the AAT Act ends.’

Section 29 of the AAT Act sets out the manner for applying to the Administrative Appeals Tribunal for a review of a decision. In particular, paragraph 29(1)(d) and subsections 29(2), (7) and (8) of the AAT Act set out matters in relation to the prescribed time for making an application, including extending the time for making an application.

Paragraphs 8(2)(aa), (ac) and (ad) of the Act currently enable the Authority to make certain determinations, and subsection 8(2B) of the Act states that the Chair of the Authority must cause a notice stating that a determination has been made and setting out the terms of the determination to be published in any manner that the Authority considers appropriate.

The amendments proposed by item 13 do not seek to affect existing applications for review or alter existing arrangements under the Act in relation to the review of determinations. Item 13 is merely consequential to item 2 above, which amends the short title of the Act to reflect the amendments made by items 4 and 8 above. Those items make amendments to subsection 4(1) and section 6 of the Act to change the legislated name of the Authority from ‘Australian Grape and Wine Authority’ to ‘Wine Australia’.

Item 14 Section 10

Item 14 amends section 10 of the Act to insert “(including arrangements and agreements under which money is, or may become, payable by the Commonwealth)” after “arrangements and agreements”.

Section 10 of the Act currently provides that, without limiting the generality of section 8 of the Act, the Authority may enter into arrangements or agreements with persons, authorities or organisations in Australia or overseas, or, with the consent of the Minister, with a State, for the purposes of the Authority. Section 8 of the Act provides for general and specific powers of the Authority.

Item 14 ensures the Authority can enter into arrangements or agreements in relation to the expanded objects of the Act and extended functions of the Authority (see items 3 and 9 above).

Item 15 At the end of section 10

Item 15 amends section 10 of the Act to insert a note at the end of that section to direct the reader to section 10C of the Act for a grant of financial assistance to a State relating to grape or wine research and development activities.

Section 10 of the Act currently states that, without limiting the generality of section 8 of the Act, the Authority may enter into arrangements or agreements with persons, authorities or organisations in Australia or overseas, or, with the consent of the Minister, with a State, for the purposes of the Authority. Section 8 of the Act provides for general and specific powers of the Authority.

Section 10C of the Act currently enables the Authority to make a grant of financial assistance to a State (including the Australian Capital Territory and the Northern Territory) if that grant relates to grape or wine research and development activities.

The new note to section 10 of the Act makes it clear that the Authority has the ability to enter into grant arrangements or agreements with a State, which, due to the definition of *State* in subsection 10C(3) of the Act, includes the Australian Capital Territory and the Northern Territory. Item 15 is intended to assist the reader and does not alter existing arrangements under the Act.

Item 16 Part IV (heading)

Item 16 repeals the current heading ‘**Part IV—Australian Grape and Wine Authority Selection Committee**’ to Part IV of the Act, and substitutes the new heading ‘**Part IV—Wine Australia Selection Committee**’ to that Part.

Item 16 is consequential to item 5 above, which, due to items 4 and 8 above, amends the definition of *Authority Selection Committee* in subsection 4(1) of the Act. Items 4 and 8 above make amendments to subsection 4(1) and section 6 of the Act to change the legislated name of the Authority from ‘Australian Grape and Wine Authority’ to ‘Wine Australia’.

Item 17 Section 27A

Item 17 amends section 27A of the Act to omit the reference to “establishes the Australian Grape and Wine Authority”, and substitute that reference with a reference to “deals with the Authority”.

Section 27A of the Act currently provides for the simplified outline of Part IV of the Act and states that that Part of the Act establishes the Australian Grape and Wine Authority Selection Committee.

Simplified outlines are included in Acts to assist readers to understand the substantive provisions of an Act; however, those outlines are not intended to be comprehensive and it is intended that the reader should rely on the substantive provisions underlying the outline.

Item 17 is consequential to items 5 and 16 above, which, due to items 4 and 8 above, amend the definition of *Authority Selection Committee* in subsection 4(1) of the Act and the heading to Part IV of the Act. Items 4 and 8 above make amendments to subsection 4(1) and section 6 of the Act to change the legislated name of the Authority from ‘Australian Grape and Wine Authority’ to ‘Wine Australia’.

Item 18 Section 27B

Item 18 repeals current section 27B of the Act, including the heading to that section, and substitutes a new section 27B of the Act with the new heading ‘**Authority Selection Committee**’.

Section 27B of the Act is currently entitled ‘**Establishment of the Authority Selection Committee**’ and provides that a committee to be known as the Australian Grape and Wine Authority Selection Committee is established by that section. The note to section 27B of the Act currently provides that, in the Act, *Authority Selection Committee* means the Australian Grape and Wine Authority Selection Committee, and also directs the reader to section 4 of the Act.

Subsection 4(1) of the Act currently defines *Authority Selection Committee* to mean the Australian Grape and Wine Authority Selection Committee. Part IV of the Act establishes the *Authority Selection Committee* and provides for the functions of that Committee. The definition of *Authority Selection Committee* in subsection 4(1) of the Act is amended by item 5 above due to the amendments made by items 4 and 8 above, which make amendments to subsection 4(1) and section 6 of the Act to change the legislated name of the Authority from ‘Australian Grape and Wine Authority’ to ‘Wine Australia’.

New subsection 27B(1) of the Act provides that new section 27B of the Act applies to the body corporate that was established by section 27B of the Act as in force immediately before the commencement of new section 27B of the Act. New section 27B of the Act will commence on the day after the Bill receives the Royal Assent.

New subsection 27B(2) of the Act provides that the committee referred to in new subsection 27B(1) of the Act continues in existence by force of new section 27B of the Act as a committee, under and subject to the provisions of the Act, under the name Wine Australia Selection Committee.

Item 18 also inserts notes at the end of new subsection 27B(2) of the Act. Note 1 to new subsection 27B(2) of the Act provides that, in the Act, *Authority Selection Committee* means the Wine Australia Selection Committee, and also directs the reader to section 4 of the Act. Note 2 to new subsection 27B(2) of the Act directs the reader to subsection 25B(1) of the AI Act, which provides that a body whose name is altered by an Act continues in existence under the new name so that its identity is not affected.

Importantly, paragraph 25B(1)(b) of the AI Act provides that, where an Act alters the name of a body (whether or not the body is incorporated) or alters the name of an office, then in any Act, in any instrument under an Act, in any award or other industrial determination or order or any industrial agreement, in any other order (whether executive, judicial or otherwise), in any contract, in any pleading in, or process issued in connection with, any legal or other proceedings or in any other instrument, a reference to the body or the office under the former name shall, except in relation to matters that occurred before the alteration took place, be construed as a reference to the body or the office under the new name.

The amendments made by item 18 are necessary to ensure that the change of name of the Authority Selection Committee does not affect the existing operations of the Authority Selection Committee or the current appointments of members of the Authority Selection Committee. Subsection 25B(1) of the AI Act ensures that any references to the Australian Grape and Wine Authority Selection Committee that are not amended by this Bill can be read as references to the Wine Australia Selection Committee after the commencement of this item and in relation to matters that arise after the commencement of this item. Further, this also ensures that, despite the change of name of the Authority Selection Committee, the existing status quo is preserved and the minor amendment does not result in unintended consequences.

Item 18 complements item 5 above, which amends the definition of **Authority Selection Committee** in subsection 4(1) of the Act due to the amendments made by items 4 and 8 above, which make amendments to subsection 4(1) and section 6 of the Act to change the legislated name of the Authority from ‘Australian Grape and Wine Authority’ to ‘Wine Australia’.

Item 19 Subsection 40Y(2)

Item 19 amends subsection 40Y(2) of the Act to omit references to “*Australian Grape and Wine Authority*”, and substitute those references with “*Wine Australia*”.

Subsection 40Y(2) of the Act currently provides that section 29 of the AAT Act has effect in relation to an application for review of a final determination (section 40W of the Act), as if the following subsections were inserted after subsection 29(1) of the AAT Act:

(1AA) Despite paragraph 29(1)(d) and subsection 29(2) of the AAT Act, an application to the Administrative Appeals Tribunal for a final determination under Part VIB of the *Australian Grape and Wine Authority Act 2013* must be made within 28 days after notice of the determination is published in accordance with section 40X of that Act.

(1AB) Despite subsection 29(8) of the AAT Act, an application under subsection 29(7) of the AAT Act in respect of a final determination under Part VIB of the *Australian Grape and Wine Authority Act 2013* must be made before the time fixed by subsection 29(1A) of the AAT Act ends.’

Section 29 of the AAT Act sets out the manner for applying to the Administrative Appeals Tribunal for a review of a decision. In particular, paragraph 29(1)(d) and subsections 29(2), (7) and (8) of the AAT Act set out matters in relation to the prescribed time for making an application, including extending the time for making an application.

Section 40W of the Act provides that, after considering any submissions made to it, the Geographical Indications Committee established by section 40N of the Act may make a final determination. Section 40X of the Act provides that the Presiding Member of the Geographical Indications Committee must cause a notice stating that a final determination has been made and setting out the terms of the determination to be published in any manner that the Geographical Indications Committee considers appropriate.

The amendments proposed by item 19 do not seek to affect existing applications for review or alter existing arrangements under the Act in relation to the review of final determinations. Item 19 is merely consequential to item 2 above, which amends the short title of the Act to reflect the amendments made by items 4 and 8 above. Those items make amendments to subsection 4(1) and section 6 of the Act to change the legislated name of the Authority from ‘Australian Grape and Wine Authority’ to ‘Wine Australia’.

PART 2—CONSEQUENTIAL AMENDMENTS

Overview

Part 2 of Schedule 1 to the Bill makes consequential amendments to other Commonwealth Acts. These amendments are necessary due to the amendments made by Part 1 of Schedule 1 to the Bill to change the legislated name of the Authority from ‘Australian Grape and Wine Authority’ to ‘Wine Australia’.

Freedom of Information Act 1982

Item 20 Part III of Schedule 2

Item 20 omits “*Australian Grape and Wine Authority Act 2013*” from Part III of Schedule 2 to the FOI Act.

Schedule 2 to the FOI Act relates to section 7 of the FOI Act, which sets out matters relating to the exemption of certain persons and bodies for the purposes of certain terms of the FOI Act. Subsection 7(2AA) of the FOI Act states that a body corporate established by or under an Act specified in Part III of Schedule 2 to the FOI Act is exempt from the operation of that Act in relation to documents in respect of the commercial activities of the body corporate. Part III of Schedule 2 to the FOI Act sets out legislation relating to agencies exempt in respect of documents in relation their commercial activities. That Part currently lists the *Australian Grape and Wine Authority Act 2013*.

Item 20 is necessary to ensure that Part III of Schedule 2 to the FOI Act does not include an outdated reference to the Act. Item 20 is merely consequential in nature and complements item 21 below.

Item 21 At the end of Part III of Schedule 2

Item 21 amends Part III of Schedule 2 to the FOI Act to insert a reference to “*Wine Australia Act 2013*” at the end of that Part.

Schedule 2 to the FOI Act relates to section 7 of the FOI Act, which sets out matters relating to the exemption of certain persons and bodies for the purposes of certain terms of the FOI Act. Subsection 7(2AA) of the FOI Act states that a body corporate established by or under an Act specified in Part III of Schedule 2 to the FOI Act is exempt from the operation of that Act in relation to documents in respect of the commercial activities of the body corporate. Part III of Schedule 2 to the FOI Act sets out legislation relating to agencies exempt in respect of documents in relation their commercial activities. That Part currently lists the *Australian Grape and Wine Authority Act 2013*.

Item 21 is necessary to ensure that Part III of Schedule 2 to the FOI Act includes a reference to the updated short title of the Act, which is amended by item 2 in Part 1 of Schedule 1 to the Bill. Item 21 is merely consequential in nature and does not seek to alter existing arrangements under the FOI Act in relation to the Act.

Primary Industries (Customs) Charges Act 1999

Item 22 Subclause 5(3) of Schedule 13

Item 22 amends subclause 5(3) of Schedule 13 to the PI(C)C Act to omit the reference to “the Australian Grape and Wine Authority established under the *Australian Grape and Wine Authority*”, and substitute that reference with a reference to “Wine Australia continued in existence under the *Wine Australia*”.

Schedule 13 to the PI(C)C Act imposes a primary industries charge for the purposes of wine that is a duty of customs within the meaning of section 55 of the Constitution.

Subclause 5(3) of Schedule 13 to the PI(C)C Act currently provides that, if there is no declaration in force under subclause 5(1) of Schedule 13 to the PI(C)C Act, then, before the Governor-General makes regulations for the purposes of clause 3 of Schedule 13 to the

PI(C)C Act, the Minister administering the PI(C)C Act must take into consideration any relevant recommendation made to that Minister by the Australian Grape and Wine Authority established under the *Australian Grape and Wine Authority Act 2013*.

Subclause 5(1) of Schedule 13 to the PI(C)C Act enables the Minister administering that Act to, by notice in the *Gazette*, declare a body to be the body whose recommendations about the amount to be prescribed for the purposes of clause 3 of Schedule 13 to the PI(C)C Act are to be taken into consideration under subclause 5(2) of Schedule 13 to the PI(C)C Act.

Subclause 5(2) of Schedule 13 to the PI(C)C Act states that, if a declaration is in force under subclause 5(1) of Schedule 13 to the PI(C)C Act, then, before the Governor-General makes regulations for the purposes of clause 3 of Schedule 13 to the PI(C)C Act, the Minister administering the PI(C)C Act must take into consideration any relevant recommendation made to that Minister by the body specified in the declaration.

Clause 3 of Schedule 13 to the PI(C)C Act provides that the rate of charge imposed by Schedule 13 to the PI(C)C Act in relation to wine is the amount worked out in accordance with the regulations made under clause 5 of Schedule 13 to the PI(C)C Act.

Item 22 is necessary to ensure that subclause 5(3) of Schedule 13 to the PI(C)C Act includes a reference to the updated short title of the Act, which is amended by item 2 in Part 1 of Schedule 1 to the Bill, and the changed name of the Authority, which is amended by items 4 and 8 in Part 1 of Schedule 1 to the Bill. Item 22 is merely consequential in nature and does not seek to alter existing arrangements under the PI(C)C Act in relation to the Act.

Item 23 Subclause 5(4) of Schedule 13

Item 23 amends subclause 5(4) of Schedule 13 to the PI(C)C Act to omit the reference to “the Australian Grape and Wine Authority”, and substitute that reference with a reference to “Wine Australia”.

Schedule 13 to the PI(C)C Act imposes a primary industries charge for the purposes of wine that is a duty of customs within the meaning of section 55 of the Constitution.

Subclause 5(4) of Schedule 13 to the PI(C)C Act currently provides that, before the Australian Grape and Wine Authority makes a recommendation under subclause 5(3) of Schedule 13 to the PI(C)C Act to the Minister administering the PI(C)C Act, the Authority must consult with the persons who are required to pay the charge concerned.

Subclause 5(3) of Schedule 13 to the PI(C)C Act provides that, if there is no declaration in force under subclause 5(1) of Schedule 13 to the PI(C)C Act, then, before the Governor-General makes regulations for the purposes of clause 3 of Schedule 13 to the PI(C)C Act, the Minister administering the PI(C)C Act must take into consideration any relevant recommendation made to that Minister by the Australian Grape and Wine Authority established under the *Australian Grape and Wine Authority Act 2013*.

Subclause 5(1) of Schedule 13 to the PI(C)C Act enables the Minister administering that Act to, by notice in the *Gazette*, declare a body to be the body whose recommendations about the amount to be prescribed for the purposes of clause 3 of Schedule 13 to the PI(C)C Act are to be taken into consideration under subclause 5(2) of Schedule 13 to the PI(C)C Act.

Subclause 5(2) of Schedule 13 to the PI(C)C Act states that, if a declaration is in force under subclause 5(1) of Schedule 13 to the PI(C)C Act, then, before the Governor-General makes regulations for the purposes of clause 3 of Schedule 13 to the PI(C)C Act, the Minister

administering the PI(C)C Act must take into consideration any relevant recommendation made to that Minister by the body specified in the declaration.

Clause 3 of Schedule 13 to the PI(C)C Act provides that the rate of charge imposed by Schedule 13 to the PI(C)C Act in relation to wine is the amount worked out in accordance with the regulations made under clause 5 of Schedule 13 to the PI(C)C Act.

Item 23 is necessary to ensure that subclause 5(4) of Schedule 13 to the PI(C)C Act includes a reference to the changed name of the Authority, which is amended by items 4 and 8 in Part 1 of Schedule 1 to the Bill. Item 23 is merely consequential in nature and does not seek to alter existing arrangements under the PI(C)C Act in relation to the Act.

Item 24 Subclause 5(4) of Schedule 13

Item 24 amends subclause 5(4) of Schedule 13 to the PI(C)C Act to omit the reference to “the Authority”, and substitute that reference with a reference to “Wine Australia”.

Schedule 13 to the PI(C)C Act imposes a primary industries charge for the purposes of wine that is a duty of customs within the meaning of section 55 of the Constitution.

Subclause 5(4) of Schedule 13 to the PI(C)C Act currently provides that, before the Australian Grape and Wine Authority makes a recommendation under subclause 5(3) of Schedule 13 to the PI(C)C Act to the Minister administering the PI(C)C Act, the Authority must consult with the persons who are required to pay the charge concerned.

Subclause 5(3) of Schedule 13 to the PI(C)C Act provides that, if there is no declaration in force under subclause 5(1) of Schedule 13 to the PI(C)C Act, then, before the Governor-General makes regulations for the purposes of clause 3 of Schedule 13 to the PI(C)C Act, the Minister administering the PI(C)C Act must take into consideration any relevant recommendation made to that Minister by the Australian Grape and Wine Authority established under the *Australian Grape and Wine Authority Act 2013*.

Subclause 5(1) of Schedule 13 to the PI(C)C Act enables the Minister administering that Act to, by notice in the *Gazette*, declare a body to be the body whose recommendations about the amount to be prescribed for the purposes of clause 3 of Schedule 13 to the PI(C)C Act are to be taken into consideration under subclause 5(2) of Schedule 13 to the PI(C)C Act.

Subclause 5(2) of Schedule 13 to the PI(C)C Act states that, if a declaration is in force under subclause 5(1) of Schedule 13 to the PI(C)C Act, then, before the Governor-General makes regulations for the purposes of clause 3 of Schedule 13 to the PI(C)C Act, the Minister administering the PI(C)C Act must take into consideration any relevant recommendation made to that Minister by the body specified in the declaration.

Clause 3 of Schedule 13 to the PI(C)C Act provides that the rate of charge imposed by Schedule 13 to the PI(C)C Act in relation to wine is the amount worked out in accordance with the regulations made under clause 5 of Schedule 13 to the PI(C)C Act.

Item 24 is necessary to ensure that subclause 5(4) of Schedule 13 to the PI(C)C Act includes a reference to the changed name of the Authority, which is amended by items 4 and 8 in Part 1 of Schedule 1 to the Bill. Item 24 is merely consequential in nature and does not seek to alter existing arrangements under the PI(C)C Act in relation to the Act.

Primary Industries (Excise) Levies Act 1999

Item 25 Clause 1 of Schedule 13 (definition of *representative organisation*)

Item 25 amends the definition of ***representative organisation*** in clause 1 of Schedule 13 to the PI(E)L Act to omit the reference to “*Australian Grape and Wine Authority*”, and substitute that reference with a reference to “*Wine Australia*”.

Schedule 13 to the PI(E)L Act imposes a primary industries levy for the purposes of grapes that is a duty of excise within the meaning of section 55 of the Constitution.

Clause 1 of Schedule 13 to the PI(E)L Act currently defines ***representative organisation*** to have the same meaning as in the *Australian Grape and Wine Authority Act 2013*.

Subsection 4(1) of the Act defines ***representative organisation*** to have the meaning given by section 5BA of the Act, which states that each of the following organisations is a ***representative organisation***: a declared winemakers organisation; a declared wine grape growers organisation; an organisation that the Minister declares, by legislative instrument, to be a representative organisation for the purposes of the Act.

Item 25 is necessary to ensure that the definition of ***representative organisation*** in clause 1 of Schedule 13 to the PI(E)L Act includes a reference to the updated short title of the Act, which is amended by item 2 in Part 1 of Schedule 1 to the Bill. Item 25 is merely consequential in nature and does not seek to alter existing arrangements under the PI(E)L Act in relation to the Act.

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

Item 26 amends the definition of ***declared winemakers’ organisation*** in clause 1 of Schedule 26 to the PI(E)L Act to omit the reference to “*Australian Grape and Wine Authority*”, and substitute that reference with a reference to “*Wine Australia*”.

Schedule 26 to the PI(E)L Act imposes a primary industries levy for the purposes of wine grapes that is a duty of excise within the meaning of section 55 of the Constitution.

Clause 1 of Schedule 26 to the PI(E)L Act currently defines ***declared winemakers’ organisation*** to have the same meaning as in the *Australian Grape and Wine Authority Act 2013*.

Subsection 4(1) of the Act defines ***declared winemakers’ organisation*** to mean an organisation declared to be a declared winemakers’ organisation by a declaration in force under section 5A of the Act.

Section 5A of the Act enables the Minister to, by notice in writing published in the *Gazette*, declare an organisation that is a national organisation representative of winemakers to be a declared winemakers organisation.

Item 26 is necessary to ensure that the definition of ***declared winemakers’ organisation*** in clause 1 of Schedule 26 to the PI(E)L Act includes a reference to the updated short title of the Act, which is amended by item 2 in Part 1 of Schedule 1 to the Bill. Item 26 is merely consequential in nature and does not seek to alter existing arrangements under the PI(E)L Act in relation to the Act.

Item 27 Subclause 9(8) of Schedule 26

Item 27 amends subclause 9(8) of Schedule 26 to the PI(E)L Act to omit the reference to “the Australian Grape and Wine Authority established under the *Australian Grape and Wine Authority*”, and substitute that reference with a reference to “Wine Australia continued in existence under the *Wine Australia*”.

Schedule 26 to the PI(E)L Act imposes a primary industries levy for the purposes of wine grapes that is a duty of excise within the meaning of section 55 of the Constitution.

Subclause 9(8) of Schedule 26 to the PI(E)L Act currently provides that if there is no declared winemakers’ organisation or declaration in force under subclause 9(6) of Schedule 26 to the PI(E)L Act, then, before the Governor-General makes regulations for the purposes of the definition of **research amount** in subclause 7(2) of Schedule 26 to the PI(E)L Act, the Minister administering the PI(E)L Act must take into consideration any relevant recommendation made to that Minister by the Australian Grape and Wine Authority established under the *Australian Grape and Wine Authority Act 2013*.

Subclause 9(6) of Schedule 26 to the PI(E)L Act provides that the Minister administering the PI(E)L Act may, by notice in the *Gazette*, declare a body to be a body whose recommendations about the amount to be prescribed for the purposes of the definition of **research amount** in subclause 7(2) of Schedule 26 to the PI(E)L Act are to be taken into consideration under subclause 9(7) of Schedule 26 to the PI(E)L Act.

Subclause 9(7) of Schedule 26 to the PI(E)L Act provides that, if a declaration is in force under subclause 9(6) of Schedule 26 to the PI(E)L Act, then, before the Governor-General makes regulations for the purposes of the definition of **research amount** in subclause 7(2) of Schedule 26 to the PI(E)L Act, the Minister administering the PI(E)L Act must take into consideration any relevant recommendation made to that Minister by the body specified in the declaration.

Subclause 7(2) of Schedule 26 to the PI(E)L Act defines **research amount** to mean such amount as is prescribed.

Item 27 is necessary to ensure that subclause 9(8) of Schedule 26 to the PI(E)L Act includes a reference to the updated short title of the Act, which is amended by item 2 in Part 1 of Schedule 1 to the Bill, and the changed name of the Authority, which is amended by items 4 and 8 in Part 1 of Schedule 1 to the Bill. Item 27 is merely consequential in nature and does not seek to alter existing arrangements under the PI(E)L Act in relation to the Act.

Item 28 Subclause 9(9) of Schedule 26

Item 28 amends subclause 9(9) of Schedule 26 to the PI(E)L Act to omit the reference to “the Australian Grape and Wine Authority”, and substitute that reference with a reference to “Wine Australia”.

Schedule 26 to the PI(E)L Act imposes a primary industries levy for the purposes of wine grapes that is a duty of excise within the meaning of section 55 of the Constitution.

Subclause 9(9) of Schedule 26 to the PI(E)L Act currently provides that, before the Australian Grape and Wine Authority makes a recommendation under subclause 9(8) of Schedule 26 to the PI(E)L Act to the Minister administering the PI(E)L Act, it must consult with the persons who are required to pay the levy concerned.

Subclause 9(8) of Schedule 26 to the PI(E)L Act provides that if there is no declared winemakers' organisation or declaration in force under subclause 9(6) of Schedule 26 to the PI(E)L Act, then, before the Governor-General makes regulations for the purposes of the definition of **research amount** in subclause 7(2) of Schedule 26 to the PI(E)L Act, the Minister administering the PI(E)L Act must take into consideration any relevant recommendation made to that Minister by the Australian Grape and Wine Authority established under the *Australian Grape and Wine Authority Act 2013*.

Subclause 9(6) of Schedule 26 to the PI(E)L Act provides that the Minister administering the PI(E)L Act may, by notice in the *Gazette*, declare a body to be a body whose recommendations about the amount to be prescribed for the purposes of the definition of **research amount** in subclause 7(2) of Schedule 26 to the PI(E)L Act are to be taken into consideration under subclause 9(7) of Schedule 26 to the PI(E)L Act.

Subclause 9(7) of Schedule 26 to the PI(E)L Act provides that, if a declaration is in force under subclause 9(6) of Schedule 26 to the PI(E)L Act, then, before the Governor-General makes regulations for the purposes of the definition of **research amount** in subclause 7(2) of Schedule 26 to the PI(E)L Act, the Minister administering the PI(E)L Act must take into consideration any relevant recommendation made to that Minister by the body specified in the declaration.

Subclause 7(2) of Schedule 26 to the PI(E)L Act defines **research amount** to mean such amount as is prescribed.

Item 28 is necessary to ensure that subclause 9(9) of Schedule 26 to the PI(E)L Act includes a reference to the changed name of the Authority, which is amended by items 4 and 8 in Part 1 of Schedule 1 to the Bill. Item 28 is merely consequential in nature and does not seek to alter existing arrangements under the PI(E)L Act in relation to the Act.

Primary Industries Levies and Charges Collection Act 1991

Item 29 Paragraph 27A(2)(c)

Item 29 amends paragraph 27A(2)(c) of the PILCC Act to omit the reference to “the Australian Grape and Wine Authority established by section 6 of the *Australian Grape and Wine Authority*”, and substitute that reference with a reference to “Wine Australia continued in existence by section 6 of the *Wine Australia*”.

The PILCC Act provides for the efficient and effective collection of primary industry levies and charges. Section 27A of the PILCC Act provides for matters in relation to the giving of information about levy payers and charge payers to an eligible recipient.

Paragraph 27A(2)(c) of the PILCC Act currently provides that, for the purposes of section 27A of the PILCC Act, an **eligible recipient** is the Australian Grape and Wine Authority established by section 6 of the *Australian Grape and Wine Authority Act 2013*.

Item 29 is necessary to ensure that paragraph 27A(2)(c) of the PILCC Act includes a reference to the updated short title of the Act, which is amended by item 2 in Part 1 of Schedule 1 to the Bill, and the changed name of the Authority, which is amended by items 4 and 8 in Part 1 of Schedule 1 to the Bill. Item 29 is merely consequential in nature and does not seek to alter existing arrangements under the PILCC Act in relation to the Act.

PART 3—TRANSITIONAL PROVISIONS

Overview

Part 3 of Schedule 1 to the Bill provides for transitional provisions that are necessary to support the amendments made by Part 1 of Schedule 1 to the Bill.

Division 1—Definitions

Item 30 Definitions

Item 30 provides for definitions of the terms *asset*, *continued Committee*, *instrument*, *liability*, *old Committee* and *transition time*, which are terms that are used throughout Part 3 of Schedule 1 to the Bill.

The terms defined in item 30 are merely included to assist the reader to understand Part 3 of Schedule 1 to the Bill, and are not intended to be inserted in the Act.

Item 30 defines *asset* to mean:

- (a) any legal or equitable estate or interest in real or person property, whether actual, contingent or prospective; or
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective.

Item 30 defines *continued Committee* to mean the Authority Selection Committee as continued under amended section 27B of the Act that bears the title *Wine Australia Act 2013* after the transition time, which is defined below. Section 27B of the Act is repealed, and new section 27B of the Act is inserted, by item 18 in Part 1 of Schedule 1 to the Bill. The short title of the Act is amended by item 2 in Part 1 of Schedule 1 to the Bill.

Item 30 defines *instrument* to include an Act and any instrument made under an Act.

Item 30 defines *liability* to mean liability, duty or obligation, whether actual, contingent or prospective.

Item 30 defines *old Committee* to mean the Authority Selection Committee as established under current section 27B of the *Australian Grape and Wine Authority Act 2013* and in existence immediately before the transition time, which is defined below.

Item 30 defines *transition time* to mean the commencement of Schedule 1 to the Bill. Schedule 1 to the Bill will commence on the day after the Bill receives the Royal Assent.

Division 2—Australian Grape and Wine Authority

Item 31 Object

Item 31 provides that the object of Division 2 of Part 3 of Schedule 1 to the Bill is to avoid doubt about the effect of continuing the existence of the body corporate Wine Australia (to which items 4 and 8 in Part 1 of Schedule 1 to the Bill relate), previously known as the Australian Grape and Wine Authority (see the current definition of *Authority* in subsection 4(1) of the Act and current section 6 of the Act), on certain matters.

Items 4 and 8 in Part 1 of Schedule 1 to the Bill make amendments to subsection 4(1) and section 6 of the Act to change the legislated name of the Authority from ‘Australian Grape and Wine Authority’ to ‘Wine Australia’.

Subsection 4(1) of the Act currently defines **Authority** to mean the Australian Grape and Wine Authority. The note to that definition also directs the reader to section 6 of the Act, which currently provides that the Australian Grape and Wine Authority is established by that section of the Act. The note to section 6 of the Act currently provides that, in the Act, **Authority** means the Australian Grape and Wine Authority, and also directs the reader to section 4 of the Act.

Item 31 is merely included to assist the reader to understand Part 3 of Schedule 1 to the Bill, and is not intended to be inserted in the Act.

Item 32 Assets and liabilities of the Australian Grape and Wine Authority

Item 32 provides that the assets and liabilities of the Australian Grape and Wine Authority immediately before the transition time continue, after the transition time, to be assets and liabilities of Wine Australia (without any conveyance, transfer or assignment).

Item 30 above defines **asset** to mean:

- (a) any legal or equitable estate or interest in real or person property, whether actual, contingent or prospective; or
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective.

Item 30 also defines **transition time** to mean the commencement of Schedule 1 to the Bill. Schedule 1 to the Bill will commence on the day after the Bill receives the Royal Assent.

Item 32 is necessary to ensure that the change of name of the Authority by items 4 and 8 in Part 1 of Schedule 1 to the Bill does not affect any interests of the Authority in existing assets or liabilities of the Authority. Further, this item also ensures that, despite the change of name of the Authority, the existing status quo is preserved and the minor amendment does not result in unintended consequences.

Item 33 References in instruments to the Australian Grape and Wine Authority

Item 33 provides that a reference to the Australian Grape and Wine Authority in an instrument that is in force immediately before the transition time has effect, after the transition time, as a reference to Wine Australia.

Item 30 above defines **instrument** to include an Act and any instrument made under an Act.

Item 30 also defines **transition time** to mean the commencement of Schedule 1 to the Bill. Schedule 1 to the Bill will commence on the day after the Bill receives the Royal Assent.

Item 33 is necessary to ensure that the change of name of the Authority by items 4 and 8 in Part 1 of Schedule 1 to the Bill does not affect any existing instruments that refer to the Authority as the ‘Australian Grape and Wine Authority’, and ensures that, after the commencement of Schedule 1 to the Bill, the reader can interpret any references to the ‘Australian Grape and Wine Authority’ as references to the ‘Wine Australia’.

Further, paragraph 25B(1)(b) of the AI Act provides that, where an Act alters the name of a body (whether or not the body is incorporated) or alters the name of an office, then in any Act, in any instrument under an Act, in any award or other industrial determination or order or any industrial agreement, in any other order (whether executive, judicial or otherwise), in any contract, in any pleading in, or process issued in connection with, any legal or other proceedings or in any other instrument, a reference to the body or the office under

the former name shall, except in relation to matters that occurred before the alteration took place, be construed as a reference to the body or the office under the new name.

Subsection 25B(1) of the AI Act ensures that any references to the Australian Grape and Wine Authority that are not amended by this Bill can be read as references to Wine Australia after the commencement of the Bill. The Bill will commence on the day after the Bill receives the Royal Assent.

Item 34 Effect of things done by, or in relation to, the Australian Grape and Wine Authority

Item 34 provides that a thing done by, or in relation to, the Australian Grape and Wine Authority before the transition time has effect, after the transition time, as if it had been done by, or in relation to, Wine Australia.

Item 30 above defines *transition time* to mean the commencement of Schedule 1 to the Bill. Schedule 1 to the Bill will commence on the day after the Bill receives the Royal Assent.

Item 34 is necessary to ensure that the change of name of the Authority by items 4 and 8 in Part 1 of Schedule 1 to the Bill does not affect the existing operations of the Authority or the current appointments of directors of the Authority. Further, this item also ensures that, despite the change of name of the Authority, the existing status quo is preserved and the minor amendment does not result in unintended consequences.

Item 35 Legal proceedings

Item 35 provides that if any proceedings to which the Australian Grape and Wine Authority is a party are pending in a court or tribunal immediately before the transition time, Wine Australia is, after the transition time, that party to those proceedings.

Item 30 above defines *transition time* to mean the commencement of Schedule 1 to the Bill. Schedule 1 to the Bill will commence on the day after the Bill receives the Royal Assent.

Item 35 is necessary to ensure that the change of name of the Authority to ‘Wine Australia’ by items 4 and 8 in Part 1 of Schedule 1 to the Bill does not affect any existing proceedings before a court or tribunal to which the ‘Australian Grape and Wine Authority’ is a party, and ensures that, after the commencement of Schedule 1 to the Bill, the Authority can remain a party to any such proceedings despite the change of name.

Division 3—Authority Selection Committee

Item 36 Object

Item 36 provides that the object of Division 3 of Part 3 of Schedule 1 to the Bill is to avoid doubt about the effect of continuing the existence of the Authority Selection Committee under amended section 27B of the Act that bears the title *Wine Australia Act 2013* (items 2 and 18 in Part 1 of Schedule 1 to the Bill relate) on certain matters.

Item 2 in Part 1 of Schedule 1 to the Bill amends section 1 of the Act to omit the reference to “*Australian Grape and Wine Authority*” from the short title of the Act, and substitute that reference with a reference to “*Wine Australia*”.

Item 18 in Part 1 of Schedule 1 to the Bill repeals current section 27B of the Act, including the heading to that section, and substitutes a new section 27B of the Act with the new heading ‘**Authority Selection Committee**’.

Item 37 References in instruments to the Authority Selection Committee

Item 37 provides that a reference to the old Committee in an instrument that is in force immediately before the transition time has effect, after the transition time, as a reference to the continued Committee.

Item 30 above defines *old Committee* to mean the Authority Selection Committee as established under current section 27B of the *Australian Grape and Wine Authority Act 2013* and in existence immediately before the transition time, which is defined below.

Item 30 above defines *instrument* to include an Act and any instrument made under an Act.

Item 30 above defines *transition time* to mean the commencement of Schedule 1 to the Bill. Schedule 1 to the Bill will commence on the day after the Bill receives the Royal Assent.

Item 30 also defines *continued Committee* to mean the Authority Selection Committee as continued under amended section 27B of the Act that bears the title *Wine Australia Act 2013* after the transition time. Section 27B of the Act is repealed, and new section 27B of the Act is inserted, by item 18 in Part 1 of Schedule 1 to the Bill. The short title of the Act is amended by item 2 in Part 1 of Schedule 1 to the Bill.

Item 37 is necessary to ensure that the change of name of the Authority Selection Committee by item 18 in Part 1 of Schedule 1 to the Bill does not affect any existing instruments that refer to the Authority Selection Committee, and ensures that, after the commencement of Schedule 1 to the Bill, the reader can interpret any references to the old Committee as references to the new Committee.

Further, paragraph 25B(1)(b) of the AI Act provides that, where an Act alters the name of a body (whether or not the body is incorporated) or alters the name of an office, then in any Act, in any instrument under an Act, in any award or other industrial determination or order or any industrial agreement, in any other order (whether executive, judicial or otherwise), in any contract, in any pleading in, or process issued in connection with, any legal or other proceedings or in any other instrument, a reference to the body or the office under the former name shall, except in relation to matters that occurred before the alteration took place, be construed as a reference to the body or the office under the new name.

Subsection 25B(1) of the AI Act ensures that any references to the Australian Grape and Wine Authority Selection Committee that are not amended by this Bill can be read as references to the Wine Australia Selection Committee after the commencement of the Bill. The Bill will commence on the day after the Bill receives the Royal Assent.

Item 38 Effect of things done by, or in relation to, the Authority Selection Committee

Item 38 provides that a thing done by, or in relation to, the old Committee before the transition time has effect, after the transition time, as if it had been done by, or in relation to, the continued Committee.

Item 30 above defines *old Committee* to mean the Authority Selection Committee as established under current section 27B of the *Australian Grape and Wine Authority Act 2013* and in existence immediately before the transition time, which is defined below.

Item 30 above defines *transition time* to mean the commencement of Schedule 1 to the Bill. Schedule 1 to the Bill will commence on the day after the Bill receives the Royal Assent.

Item 30 also defines *continued Committee* to mean the Authority Selection Committee as continued under amended section 27B of the Act that bears the title *Wine Australia Act 2013* after the transition time. Section 27B of the Act is repealed, and new section 27B of the Act is inserted, by item 18 in Part 1 of Schedule 1 to the Bill. The short title of the Act is amended by item 2 in Part 1 of Schedule 1 to the Bill.

The note to item 38 is merely included to assist the reader to understand that item, and is not intended to be inserted in the Act. The note states that, for example, any request for nominations made under section 27E of the *Australian Grape and Wine Authority Act 2013* in relation to the old Committee before the transition time has effect, after the transition time, as if it had been made under that section in relation to the continued Committee.

Item 38 is necessary to ensure that the change of name of the Authority Selection Committee by item 18 in Part 1 of Schedule 1 to the Bill does not affect the existing operations of the Authority Selection Committee or the current appointments of members of the Authority Selection Committee. Further, this item also ensures that, despite the change of name of the Authority Selection Committee, the existing status quo is preserved and the minor amendment does not result in unintended consequences.

Division 4—Rules

Item 39 Rules

Item 39 provides for matters in relation to rules that may be made by the Minister by way of legislative instrument.

Sub-item 39(1) states that the Minister may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by the Bill.

Accordingly, any such instruments made by the Minister under sub-item 39(1) of the Bill will be subject to the application of the *Legislation Act 2003*, including the provisions relating to disallowance and sunseting.

Sub-item 39(2) ensures that the scope of matters that may be dealt with by the rules is appropriately limited, by providing that, to avoid doubt, the rules may not do the following:

- (a) create an offence or civil penalty;
- (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
- (c) impose a tax;
- (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in the Bill;
- (e) directly amend the text of the Bill.

Sub-item 39(3) provides that Part 3 of Schedule 1 to the Bill (other than sub-item 39(2)) does not limit the rules that may be made for the purposes of sub-item 39(1).

Item 39 is necessary to ensure that the Minister can, by legislative instrument, make additional transitional arrangements, if necessary, in order to enable the amendments in Part 1 of Schedule 1 to the Bill to be appropriately implemented following the commencement of

Schedule 1 to the Bill. Schedule 1 to the Bill will commence on the day after the Bill receives the Royal Assent.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Australian Grape and Wine Authority Amendment (Wine Australia) Bill 2017

The Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act.

Overview of the Bill

The Bill will make amendments to the Act to enable the Authority established by section 6 of the Act to implement, facilitate and administer programs for cider and in relation to international wine tourism, and to administer grant programs in relation to wine, as defined by section 33-1 of the WET Act. The amendments will also formally change the name of the Authority.

The Bill will:

- enable the Authority to implement all program activities under the Wine Support Package, including for the purposes of cider and international wine tourism;
- enable the Authority to administer grant programs for wine (as defined by section 33-1 of the WET Act), including the Cellar Door Grant;
- change the name of the Authority from the ‘Australian Grape and Wine Authority’ to ‘Wine Australia’.

Conclusion

The measures in the Bill are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act as the Bill does not engage any human rights issues.

**(Circulated by authority of the Assistant Minister for Agriculture and Water Resources,
Senator the Hon. Anne Ruston)**