

1980

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Australian Wine and Brandy Corporation Bill 1980
Wine Grapes Levy Amendment Bill 1980
Wine Research Amendment Bill 1980

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for
Primary Industry, the Hon. Peter Nixon, MP)

OUTLINE

Australian Wine and Brandy Corporation Bill 1980

This Bill provides for the replacement of the Australian Wine Board by the Australian Wine and Brandy Corporation. This action is part of the process of review and modernisation of primary industry statutory marketing authorities which has been proceeding for some years.

The main changes being made are:

- . the powers of the Corporation will be enhanced over those - basically regulatory - of the Board, most notably by expansion of the power to trade on the export market, subject to Ministerial approval, and specific provision for borrowing under Commonwealth guarantee if the Treasurer so approves
- . the jurisdiction of the new Corporation will cover wine, brandy and rectified grape spirit. Although grape juice as such is not included, the Government considers that the Corporation should not be prevented from playing some part in grape juice disposal if grape surpluses occur. The Bill accordingly allows for regulations to be made to confer appropriate functions on the Corporation in relation to grape juice
- . the Government will appoint the Chairman of the Corporation; previously the Board appointed one of its members. The new arrangement will permit the appointment of a person from outside the industry to assist the Corporation

- . representation of private and proprietary winemakers will no longer be on a State basis but will be according to scale of enterprise. Six, instead of five, members will be elected by such winemakers, and greater representation of medium and large scale interests than of small has been provided
- a regulation under this Act will provide that only one such member may be elected in each class (large, medium, small) from any one State
- . for balance, grower membership has been increased from three to four
- . the Corporation will have fourteen members compared to the Board's eleven. To avoid any risk of unwieldiness, the Corporation will - as did the Board - be able to delegate any of its powers to an Executive Committee of five members.

Wine Grapes Levy Amendment Bill 1980

The Wine Grapes Levy Act 1979 must be amended, as a consequence of the proposed enactment of the Australian Wine and Brandy Corporation Act 1980. References to the Australian Wine Board are to be replaced by reference to the Australian Wine and Brandy Corporation.

The opportunity is being taken of amending the factor used to convert quantities of grape juice to their fresh grape equivalent for levy purposes. This amendment reflects technological developments.

Wine Research Amendment Bill 1980

References in the Wine Research Act 1955 to the "Board" must be amended to read "Corporation", as a consequence of the proposed enactment of the Australian Wine and Brandy Corporation Act 1980. Some non-substantive minor amendments are also being made.

Australian Wine and Brandy Corporation Bill 1980NO. OF
CLAUSEEXPLANATION

2. This clause provides that clauses 1 and 2, and sub-clause 13(4), which provides for elections to elect certain members of the Corporation, are to come into operation on the date of Royal Assent. The remainder of the Act is to come into operation on a date to be fixed by Proclamation.
3. This clause sets out the objects of the Act, and requires the Corporation to act only in pursuance of these specified objects.
4. This clause defines terms used in the Bill and the method of conversion, for the purposes of the Act, of a quantity of prescribed goods to their fresh grape equivalent. These definitions are self-explanatory. Sub-clause 4(3) provides that a manufacturer of grape products who uses less than 20 tonnes of fresh grapes and fresh grape equivalent of prescribed products in any year is not to be treated as a wine producer, for the purposes of the Act, during the next year.
5. This clause establishes, on the basis of usage of fresh grapes or their equivalent, three classes of producers, for purposes of election of commercial producer representatives on the Corporation.
7. This clause defines the functions of the Corporation. These include: to promote and control export of grape products, to encourage and promote their consumption and sale in Australia and overseas, to improve their production, and to conduct and arrange research into production, handling and transport of grape products and prescribed goods. Provision is made for additional functions as conferred by the Act or the regulations.

8. This clause empowers the Corporation to perform its functions. It is specifically enabled to: make recommendations to the Minister in relation to the export of any grape product; arrange with persons, organisations or companies to perform work, or act, for the Corporation in Australia or overseas; and, with approval of the Minister, engage in trade in grape products.
9. This clause requires contracts for carriage of grape products to places outside Australia, and carriers undertaking the carriage of the grape products to such places, to be subject to Corporation approval.
13. This clause provides that the membership of the Corporation shall be fourteen.

The Chairman is to be appointed by the Minister without any requirement of reference to other bodies. In addition to the Chairman, there is to be one member representing the Commonwealth Government, six members representing commercial producers, two to represent co-operative producers, and four to represent wine grape growers.

Of the six members to represent commercial producers, one is to represent small-scale producers, two to represent medium-scale producers and three to represent large-scale producers.

It is intended to provide, in Electoral Regulations to be made under the Act, that no more than one member in each of these classes shall be elected from any one State.

Representatives of commercial producers are to be elected by the commercial producers included in the particular class.

Members representing co-operative producers and members representing growers are to be appointed by the Minister on the nomination of the co-operatives' organisation and the growers' organisation respectively.

14. This clause provides for each member to be appointed for a three year term, except that the member representing the Commonwealth Government is to hold office during the Minister's pleasure.

If a vacancy occurs among members representing commercial producers, the Minister may, subject to the regulations, appoint a person for the remainder of the three year period.

If a vacancy occurs in the office of Chairman or among members representing co-operative producers or growers, the Minister may appoint a person for the remainder of the three year period. In the case of co-operative producers or growers, the appointment shall be on the nomination of the relevant organisation.

15. This clause provides for the Corporation to appoint a Deputy Chairman, and sets the limit of his term of office. It also provides for his removal or resignation. When the Chairman is not available, the Deputy Chairman has all the powers, and shall perform all the functions, of the Chairman.

16. This clause provides for the Corporation to hold elections to determine candidates to be appointed to certain offices.
17. This clause provides for Ministerial appointment, and revocation of appointment, of the deputy of a member. It lays down criteria of eligibility, and empowers a deputy to attend meetings in absence of the member and to be deemed a member when so attending.
20. This clause empowers the Minister to terminate the appointment of a member by reason of misbehaviour or incapacity, and terminate the appointment of a representative of co-operative producers or of wine grape growers at the request of the respective organisation. The Minister shall terminate the appointment of a member who becomes bankrupt, fails - without reasonable excuse - to disclose relevant pecuniary interests, or fails to meet eligibility or attendance criteria.
21. This clause requires members to disclose pecuniary interests in matters being, or about to be, considered, and provides for such disclosures to be recorded.
23. This clause establishes an Executive Committee of the Corporation.
24. This clause provides that the powers and functions of the Executive Committee shall be as the Corporation determines. The exercise of a power or performance of a function by the Executive Committee does not prevent exercise of the power or performance of the function by the Corporation.

25. This clause provides for the membership of the Executive Committee. The Chairman of the Corporation is appointed a member, and the other members, representing specified interests, are to be appointed by the Corporation.
26. This clause provides that the Chairman of the Corporation is Chairman of the Executive Committee.
27. This clause provides for the term of office of each appointed member of the Executive Committee to commence on the date of his appointment or such later date as the Corporation determines and end immediately before the next following anniversary of the commencing date. A member shall cease to be a member of the Executive Committee if he ceases to be a member of the Corporation.
32. This clause provides for the payment to the Corporation, out of Consolidated Revenue, of amounts equal to the amounts received from levies imposed under the Wine Grapes Levy Collection Act 1979 (and any amounts received under the Wine Grapes Charges Act 1929). These funds finance the administration of the Corporation.
33. This clause provides for the Corporation to repay the Commonwealth amounts, refunded by the Commonwealth in respect of amounts paid or overpaid to the Commonwealth under the Wine Grapes Levy Collection Act 1979, and previously paid by the Commonwealth to the Corporation or its predecessor.
34. This clause provides the sole conditions on which the Corporation may borrow money and give security for such borrowings. The Treasurer may guarantee repayments, including interest, of borrowings.

35. This clause establishes the legitimate areas to which moneys received by the Corporation may be applied - other than investment, which is provided for in clause 36. These areas include expenses, charges, obligations and liabilities incurred, remuneration, fees etc payable, and other payments authorised or required, under this Act.
36. This clause provides that moneys of the Corporation not immediately required may be invested in an approved manner.
37. This clause forbids the Corporation to enter into contracts, other than contracts for the purchase or sale of any grape products, exceeding \$100,000, without the approval of the Minister.
38. This clause subjects the Corporation to Division 2, of Part XI, of the Audit Act 1901. This Division contains provisions relating to bank accounts, investment of moneys, the keeping of proper accounts, audit of the accounts and records of financial transactions and records relating to assets of the Corporation, and submission by the Corporation to the Minister of an annual report and financial statements for each year ending 30 June as soon as practicable after, but not more than six months after, 30 June.
39. This clause provides for the Corporation to be subject to Commonwealth taxation other than income tax. The Corporation is not subject to State or Territory taxes except where otherwise provided by regulation.

40. This clause provides for Corporation members and their deputies, and members of any committee established by the Corporation, to be paid remuneration in accordance with the determinations of the Remuneration Tribunal, or if no such determination is in operation, such remuneration as is prescribed. Such persons shall be paid allowances as prescribed. However, where a person to whom this clause applies is a Parliamentarian or a candidate for Parliament, that person shall only be reimbursed for expenses reasonably incurred on Corporation business.

43. This clause provides for the Corporation to delegate its powers.

44. This clause establishes a penalty of \$2,000 for exporting a grape product in contravention of the regulations.

46. This clause provides for the Governor-General to make regulations under the Act. One of the first duties of the new Corporation will be to prepare recommendations to the Minister in respect of regulations.

The regulations may confer on the Corporation functions in relation to grape juice.

49. This clause vests in the Corporation the rights, property and assets of the Board immediately before the commencing date. It makes the Corporation liable for debts, liabilities or obligations of the Board at that time, and it substitutes the Corporation for the Board in continuing contracts and court proceedings.

51. This clause establishes that the Corporation may apply its moneys in payment of debts, liabilities and obligations of the Australian Wine Board after the commencement of this Act.
52. This clause provides for payment to the Corporation, out of the Consolidated Revenue Fund, of moneys received by the Commonwealth before the commencement of this Act, under the Wine Grapes Charges Act 1929, the Wine Grapes Levy Act 1979, and as penalties under the Wine Grapes Levy Collection Act 1979, but not paid by the Commonwealth to the Australian Wine Board. Such payment shall be less any amount of refund to be paid by the Commonwealth under the Wine Grapes Levy Collection Act 1979.
53. This clause provides that an existing employee of the Board shall be deemed to be engaged, on the commencing date of this Act, as an employee of the Corporation. The terms and conditions of employment applicable to him before the commencing date are deemed to be determined under this Act, but may be varied after the commencing date.
54. This clause requires the Corporation to report, within six months of the commencing date, to the Minister on the operations of the Board in its closing period.
55. This clause enables provision by regulation for continuing operation of licences and certificates of authority to export in force under regulations made under the Wine Overseas Marketing Act 1929.

Wine Grapes Levy Amendment Bill 1980

2. By this clause, clauses 1 and 2 and sub-clauses 3(2) and (3), which provide for a new conversion factor for calculating the fresh grape equivalent of grape juice, and for a date of application of that new factor, are to come into operation on the date of Royal Assent. The remainder of the Act is to come into operation on a date to be fixed under the Australian Wine and Brandy Corporation Act 1980.
3. This clause substitutes a definition of "Corporation" for the definition of "Board", amends the conversion factor for calculating the fresh grape equivalent of grape juice, and provides that the new factor will have effect in relation to grape juice subjected to a wine-making process on or after 1 July 1980.

Wine Research Amendment Bill 1980

2. This clause provides for the Act to come into operation on a date to be fixed under the Australian Wine and Brandy Corporation Act 1980.
3. This clause provides for the repeal of Section 4 of the Principal Act and substitution in its stead of a definition of the Corporation, together with certain amended definitions of terms previously mentioned in the Principal Act.
4. This clause substitutes the word "Corporation" for the word "Board" in reference to authorisation of certain payments to the Australian Wine Research Institute.