



Statutory Rules 1993 No. 374<sup>1</sup>

**Australian Wine and Brandy Corporation (Exports)  
Regulations<sup>2</sup> (Amendment)**

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Australian Wine and Brandy Corporation Act 1980*.

Dated 22 December 1993.

BILL HAYDEN  
Governor-General

By His Excellency's Command,

NICK SHERRY  
Parliamentary Secretary to the Minister for Primary  
Industries and Energy for the  
Minister for Primary Industries and Energy

**1. Amendment**

1.1 The Australian Wine and Brandy Corporation (Exports) Regulations are amended as set out in these Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

**2. Regulation 1 (Citation)**

2.1 Omit "(Exports)".

**3. New Part heading**

3.1 Before regulation 1, insert:

**“PART 1–PRELIMINARY”.**

**4. Regulation 3 (Interpretation)**

4.1 Omit the regulation, substitute:

**Interpretation**

“3. In these Regulations, unless the contrary intention appears:

‘**approved**’ means approved by the Corporation;

‘**Australian standard**’ means a standard:

- (a) within the meaning of the *National Food Authority Act 1991*; and
- (b) as in force on the day on which this regulation commences;

‘**export certificate**’ means a certificate issued by the Corporation under regulation 7;

‘**Food Standards Code**’ means the Food Standards Code:

- (a) within the meaning of the *National Food Authority Act 1991*; and



(b) as in force on the day on which this regulation commences;

‘**licence**’ means a licence granted under regulation 5;

‘**licensee**’ means the holder of a licence;

‘**the Act**’ means the *Australian Wine and Brandy Corporation Act 1980*;

‘**vintage**’, in relation to a grape, means the year in which the grape was harvested.”.

## 5. Regulation 4 (Exemption)

5.1 Omit the regulation, substitute:

### Grape products

“4. For the purposes of paragraph (d) of the definition of ‘grape product’ in subsection 4 (1) of the Act, a product is a grape product for the purposes of the Act if:

- (a) it includes wine; and
- (b) it is derived in whole or in part from prescribed goods; and
- (c) it is not a grape product referred to in paragraph (a), (b) or (c) of that definition; and
- (d) an Australian standard applies to it.”.

## 6. New Part heading

6.1 After regulation 4, insert:

### “PART 2—GENERAL EXPORT CONTROLS”.

## 7. Regulation 5 (Grant of licences)

7.1 Paragraph 5 (3) (a):

Add at the end “and”.

7.2 Paragraph 5 (3) (b):

Omit the paragraph.

7.3 Paragraph 5 (3) (c):

Add at the end “and”.

7.4 Paragraph 5 (3) (e):

Omit “, including the number of licences in force authorizing the export of the grape product in respect of which the applicant has applied for a licence”.

7.5 Subregulation 5 (3):

Add at the end:

“; and (f) whether the Corporation has cancelled a licence held by the applicant; and

(g) if the applicant is an individual—whether the Corporation has cancelled a licence held by a corporation of which the applicant was a director or a shareholder who held a controlling interest.”.

## 8. Regulation 6 (Regulation of export)

8.1 Omit the regulation, substitute:

### Conditions of export—general

“6.

(1) The export of a grape product is prohibited unless:

(a) the exporter is a licensee; and

(b) the Corporation has approved:

- (i) the purchaser of the product; or
  - (ii) the person to whom the product is consigned as an agent or representative of the purchaser, or the licensee, in the country to which the product is consigned; and
  - (c) the product is exported in accordance with any directions given to the licensee by the Corporation; and
  - (d) the product is sound and merchantable; and
  - (e) the licensee has given the Corporation, or allowed the Corporation to take, any samples of the product reasonably required by the Corporation for the purpose of determining the soundness and quality of the product; and
  - (f) the Corporation has issued an export certificate for the product.
- “(2) This regulation does not apply to the export of a grape product in a consignment of less than 100 litres.

### Conditions of export–food standards

“6A.

- (1) The export of a grape product is prohibited unless it complies:
  - (a) with the Food Standards Code; or
  - (b) if subregulation (2) or (3) applies to the product—with that subregulation.

“(2) If the grape product is to be exported to a country that imposes requirements for grape products that conflict with the Food Standards Code, the product must:

- (a) comply with the requirements of the other country that conflict with the Code; and
  - (b) comply with the Code in any other respect.
- (3) If:

- (a) the grape product is to be exported to a country that imposes no requirements for grape products; and
- (b) the Corporation has approved in writing standards for the export of the product that differ from the requirements of the Food Standards Code;

the product must:

- (c) comply with the standards to the extent that they differ from the Code; and
- (d) comply with the Code in any other respect.”.

### 9. Regulation 7 (Certificate of compliance)

9.1 Omit the regulation, substitute:

#### Export certificates

“7.

(1) A licensee may apply for an export certificate by notifying the Corporation of the proposed export of a grape product.

“(2) The licensee must notify the Corporation by lodging with it a notification of the proposed export of a grape product in an approved form.

“(3) A notification must be given at least 10 days before the day on which the grape product is to be exported.

“(4) If the export of the grape product would comply with the conditions for export that apply to it, the Corporation must issue an export certificate to that effect at least 3 days before the day on which the product is to be exported.

“(5) The Corporation may issue an export certificate by electronic means.

“(6) If the export of the grape product would not comply with the conditions for export that apply to it, the Corporation must:

- (a) refuse to issue an export certificate; and
- (b) send a statement to that effect to the licensee, setting out the grounds on which the export would not comply with the conditions.

“(7) The Corporation may revoke an export certificate if the export of the grape product ceases, or would cease, to comply with the conditions for export that apply to the product.”.

#### **10. Regulation 8 (Powers of Corporation)**

10.1 Paragraph 8 (a):

Omit “prices”, substitute “minimum prices”.

10.2 Paragraph 8 (b):

Omit “in respect of which the licence was granted”, substitute “to which an export certificate relates”.

#### **11. Regulation 9 (Suspension and cancellation of licences)**

11.1 Add at the end:

“(4) The Corporation may suspend or cancel a licence if the licensee exports a grape product in contravention of a provision of the Act or these Regulations.

“(5) The Corporation may suspend or cancel a licence if:

- (a) the licensee claims that the Corporation has given an approval in relation to the export of a grape product; and
- (b) the Corporation has not given an approval of that kind in relation to the export.”.

#### **12. Regulation 10 (Application for review of decision)**

12.1 Paragraphs 10 (a), (b) and (c):

Omit the paragraphs, substitute:

- “(a) a refusal by the Corporation under subregulation 5 (1) to grant a licence; or
- (b) a refusal by the Corporation under subregulation 7 (6) to issue an export certificate; or
- (c) a decision of the Corporation under subregulation 7 (7) to revoke an export certificate; or
- (d) a decision of the Corporation under subregulation 9 (2), (3), (4) or (5) to suspend or cancel a licence.”.

#### **13. Regulation 11 (Corporation may require information)**

13.1 Omit from the foot of the regulation “\$500.”, substitute “10 penalty units”.

#### **14. New Parts 3 and 4 and Schedule**

14.1 Add at the end of the Regulations:

### **“PART 3—EXEMPTION OF WINES FROM OFFENCE PROVISIONS**

#### **Small quantities of wine**

“12.

(1) For the purposes of the definition of ‘small quantities’ in subsection 40J (1) of the Act, wine:

(a) that is contained in labelled containers, each of which:

- (i) has a capacity of not more than 5 litres; and
- (ii) is fitted with a non-reusable closing device; and

(b) that is transported, whether or not in separate consignments, in a total quantity that does not exceed 100 litres;

is declared to be a small quantity of wine.

“(2) For the purposes of the definition of ‘small quantities’ in subsection 40J (1) of the Act, the following are declared to be small quantities of wine:

- (a) a quantity of wine, not exceeding 30 litres, that is contained in the personal luggage of a traveller;
- (b) a quantity of wine, not exceeding 30 litres, that is sent in a consignment by an individual to another individual;
- (c) a quantity of wine for the household of an individual who is moving house;
- (d) a quantity of wine:
  - (i) that is intended to be displayed in Australia, or an agreement country, at a trade fair, or a comparable event, for the purposes of the customs laws of the relevant country; and
  - (ii) that is packed in labelled containers of a capacity of not more than 2 litres and fitted with a non-reusable closing device;
- (e) a quantity of wine, not exceeding 1 hectolitre, that is imported into Australia, or exported to an agreement country, for the purpose of scientific or technical purposes;
- (f) a quantity of wine that is imported into Australia, or exported to an agreement country, by a diplomatic, consular or similar establishment as part of the duty-free allowance of the establishment;
- (g) a quantity of wine that is held on board a means of international transport as victualling supplies.

“(3) In spite of subregulations (1) and (2), a quantity of wine is not a small quantity of wine if it is transported as a single consignment that includes quantities of wine referred to in subregulations (1) and (2).

### **Geographical indications and traditional expressions**

“13.

(1) For the purposes of subsection 40J (5) of the Act, the use of a geographical indication or traditional expression set out in Part 1 of the Schedule is exempted from the operation of subsections 40C (1), (2) and (3), section 40E and subsection 40H (1) of the Act until the end of 31 December 1993.

“(2) For the purposes of subsection 40J (5) of the Act, the use of a geographical indication or traditional expression set out in Part 2 of the Schedule is exempted from the operation of subsections 40C (1), (2) and (3), section 40E and subsection 40H (1) of the Act until the end of 31 December 1997.

“(3) For the purposes of subsection 40J (5) of the Act, the use of a geographical indication or traditional expression set out in Part 3 of the Schedule is exempted from the operation of subsections 40C (1), (2) and (3), section 40E and subsection 40H (1) of the Act.

### **Vine varieties: Hermitage**

“14. For the purposes of subsection 40J (5) of the Act, the use of the name ‘Hermitage’ to describe and present wine is exempted from the operation of subsections 40C (1), (2) and (3) and section 40E of the Act if:

- (a) the name is used as a synonym for the grape variety ‘Shiraz’; and
- (b) the wine originates in Australia; and
- (c) the wine is sold in a country other than an EC country.

### **Vine varieties: Lambrusco**

“15. For the purposes of subsection 40J (5) of the Act, the use of the name ‘Lambrusco’ to describe and present wine is exempted from the operation of subsections 40C (1), (2) and (3) and section 40E of the Act if:

- (a) the name is used to describe a style of wine traditionally made and marketed under that name; and
- (b) the name is not used to describe a variety of grapes from which the wine is made; and
- (c) the wine originates in Australia; and
- (d) the wine is sold in a country other than an EC country.

#### **Vine varieties: Riesling**

“16. For the purposes of subsection 40J (5) of the Act, the use of the name ‘Riesling’ to describe and present wine is exempted from the operation of subsections 40C (1), (2) and (3) and section 40E of the Act if:

- (a) the name is used to describe a style of wine traditionally made and marketed under that name; and
- (b) the name is not used to describe a variety of grapes from which the wine is made; and
- (c) the wine originates in Australia; and
- (d) the wine is sold in a country other than an EC country.

#### **Marketing periods for the use of geographical indications, registered traditional expressions and protected ancillary expressions**

“17.

(1) For the purposes of subsection 40J (5) of the Act, the use of a registered geographical indication, a registered traditional expression or a protected ancillary expression to describe and present wine is exempted from the operation of the offence provisions within the meaning of subsection 40J (1) of the Act if:

- (a) the offence provisions apply to the use of the indication or expression after the day on which this regulation commences; and
- (b) the wine was lawfully produced before the day on which the offence provisions first apply to the use of the indication or expression; and
- (c) the indication or expression is used by:
  - (i) a wholesaler of wine acting in the course of the wholesaler’s business; or
  - (ii) a retailer of wine in the course of the retailer’s business.

“(2) The exemption in subregulation (1) ceases to apply to the use of the indication or expression by a wholesaler at the end of the period of 3 years commencing on the day on which the offence provisions first apply to the use of the indication or expression.

“(3) The exemption in subregulation (1) ceases to apply to the use of the indication or expression by a retailer:

- (a) at the end of the period of 3 years commencing on the day on which the offence provisions first apply to the use of the indication or expression; or
- (b) if the retailer has a stock of the wine at the end of that period—when that stock is exhausted.

## **“PART 4 – BLENDING REQUIREMENTS**

### **Interpretation**

“18. In this Part, ‘**wine**’ means wine that is offered for sale in Australia, imported into Australia or exported from Australia.

### **Blending requirements: grape blends produced in more than one country**

“19.

(1) For the purposes of subsection 40H (1) of the Act, if wine is made from a blend of grapes that is produced in more than one country, the description and presentation of the wine must set out:

- (a) the name of the blend produced in each country; and
- (b) the proportion of the total blend that was produced in each of the countries; in a manner that mentions first the country in which the larger or largest proportion of the blend was produced.

“(2) For the purposes of subsection 40H (1) of the Act, if wine is produced in Australia from a blend of grapes that includes grapes that did not originate in Australia, the description and presentation of the wine must set out:

- (a) the name of the blend produced in each country; and
- (b) the proportion of the total blend that was produced in each of the countries; in a manner that mentions first the country in which the larger or largest proportion of the blend was produced.

“(3) If the wine includes a variety of grape referred to in regulation 15 or 16, the variety may be identified in a manner permitted by the relevant regulation.

### **Blending requirements: grape varieties**

“20.

(1) For the purposes of subsection 40H (1) of the Act, if the description and presentation of wine refers to one or more varieties of grape, the description and presentation must identify all of the varieties in descending order of their proportions in the wine.

“(2) In spite of subregulation (1), wine may be described and presented as being of a particular variety of grape if it consists at least 850ml/L of that variety.

“(3) In spite of subregulation (1), if:

- (a) wine consists of at least 850ml/L of a blend of no more than 3 varieties of grape; and
- (b) the wine includes at least 200ml/L of each of those varieties;

the wine must be described and presented as being of those particular varieties of grape.

“(4) In spite of subregulation (1), if:

- (a) wine consists of 1,000ml/L of a blend of no more than 5 varieties of grape; and
- (b) the wine includes at least 50ml/L of each of those varieties;

the wine must be described and presented as being of those particular varieties of grape.

“(5) For the purpose of determining the proportion of the varieties of grapes under subregulation (4), the variety, vintage and geographical indication of a culture of micro-organisms used in the manufacture of the wine, not exceeding a maximum of 50ml/L, is to be excluded.

“(6) For the purposes of this regulation, the volume of grapes in a fortified wine is to be calculated exclusive of the grape spirit or brandy (or both) added to the wine.

“(7) If the wine includes a variety of grape referred to in regulation 15 or 16, the variety may be identified in a manner permitted by the relevant regulation.

### **Blending requirements: geographical indications**

“21.

(1) For the purposes of subsection 40H (1) of the Act, if:

- (a) wine is made from a blend of grapes that come from different regions that have:
  - (i) if the wine is produced in Australia or an agreement country—registered geographical indications; or

(ii) in any other case—geographical indications; and

(b) the description and presentation of the wine refers to one or more of those indications; the description and presentation of the wine must set out the names of all of the indications in descending order of the proportions of the relevant grapes in the wine.

“(2) In spite of subregulation (1), wine may be described and presented using a particular registered geographical indication if:

- (a) it is produced in Australia or an agreement country; and
- (b) it consists of at least 850ml/L of a variety of grape that comes from a region that has that registered geographical indication.

“(3) In spite of subregulation (1), wine may be described and presented using a particular geographical indication if:

- (a) it is not produced in Australia or an agreement country; and
- (b) it consists of at least 850ml/L of a variety of grape that comes from a region that has that geographical indication.

“(4) In spite of subregulation (1), wine may be described and presented using particular registered geographical indications if:

- (a) it is produced in Australia or an agreement country; and
- (b) it consists of at least 950ml/L of a blend of varieties of grape that come from no more than 3 regions that have those registered geographical indications; and
- (c) it includes at least 50ml/L of each of those varieties.

“(5) In spite of subregulation (1), wine may be described and presented using particular geographical indications if:

- (a) it is not produced in Australia or an agreement country; and
- (b) it consists of at least 950ml/L of a blend of varieties of grape that come from no more than 3 regions that have those registered geographical indications; and
- (c) it includes at least 50ml/L of each of those varieties.

“(6) For the purposes of this regulation, the volume of grapes in a fortified wine is to be calculated exclusive of the grape spirit or brandy (or both) added to the wine.

### **Blending requirements: vintages**

“22.

(1) For the purposes of subsection 40H (1) of the Act, if:

- (a) wine is made using grapes that were harvested in more than one vintage; and
- (b) the description and presentation of the wine refers to one or more of those vintages;

the description and presentation of the wine must refer to all of the vintages in descending order of the proportions of the relevant grapes in the wine.

“(2) In spite of subregulation (1), wine may be described and presented as being of one vintage if it consists of at least 850ml/L of a variety, or varieties, of grape harvested in that vintage.

“(3) For the purposes of subregulation (2), the volume of grapes in a fortified wine is to be calculated exclusive of the grape spirit or brandy (or both) added to the wine.





**SCHEDULE**  
**GEOGRAPHICAL INDICATIONS, TRADITIONAL**  
**EXPRESSIONS AND VINE VARIETIES**

**PART 1**

Beaujolais  
Cava  
Frascati  
Sancerre  
Saint-Emilion  
St. Emilion  
Vinho Verde  
Vino Verde  
White Bordeaux

**PART 2**

Chianti  
Frontignan  
Hock  
Madeira  
Malaga

**PART 3**

Burgundy  
Chablis  
Champagne  
Claret  
Graves  
Marsala  
Moselle  
Port  
Sauternes  
Sherry  
White Burgundy”.

**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 24 December, 1993.
2. Statutory Rules 1981 No. 156 as amended by 1986 No. 161.