AUSTRALIAN WINE AND BRANDY CORPORATION
AMENDMENT BILL 1986

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**SCHEDULE 1**

AMENDMENTS RELATING TO PENALTIES

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AMENDMENTS RELATING TO SEXIST LANGUAGE
A BILL

FOR

An Act to amend the Australian Wine and Brandy Corporation Act 1980, and for related purposes

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

1. (1) This Act may be cited as the Australian Wine and Brandy Corporation Amendment Act 1986.

(2) The Australian Wine and Brandy Corporation Act 1980¹ is in this Act referred to as the Principal Act.

Commencement

2. (1) Sections 1 and 2, sub-section 3 (1) and sections 5, 14, 19 and 30 shall come into operation on the day on which this Act receives the Royal Assent.
(2) The remaining provisions of this Act shall come into operation on 1 July 1986.

Interpretation

3. (1) Section 4 of the Principal Act is amended by inserting after the definition of "Corporation" in sub-section (1) the following definition:

"'declared winemakers organisation' means an organisation declared to be a declared winemakers organisation by a declaration in force under section 5A;".

(2) Section 4 of the Principal Act is amended—

(a) by inserting before the definition of "appoint" in sub-section (1) the following definition:

"'annual operational plan' means a plan developed by the Corporation and approved by the Minister in accordance with Division 2 of Part VA;";

(b) by omitting from sub-section (1) the definition of "Chairman" and substituting the following definition:

"'Chairperson' means the Chairperson of the Corporation;";

(c) by omitting from sub-section (1) the definitions of "commercial producer", "co-operative producer" and "co-operatives organization" and substituting the following definitions:

"'Committee' means the Australian Wine and Brandy Corporation Selection Committee established by this Act;

'corporate plan' means a plan developed by the Corporation and approved by the Minister in accordance with Division 1 of Part VA;";

(d) by omitting the definition of "Deputy Chairman" and substituting the following definition:

"'Deputy Chairperson' means the Deputy Chairperson of the Corporation;";

(e) by omitting from sub-section (1) the definitions of "elect", "election", "Executive Committee" and "firm";

(f) by omitting "or" from paragraph (b) of the definition of "grape product" in sub-section (1);

(g) by adding at the end of the definition of "grape product" in sub-section (1) the following word and paragraph:

"or (d) a product (being prescribed goods or a product derived in whole or in part from prescribed goods) declared by the regulations to be a grape product for the purposes of this Act;";

(h) by omitting from sub-section (1) the definitions of "growers organization" and "member" and substituting the following definitions:

"'industry' means the grape products industry in Australia;"
'member' means a member of the Corporation and includes the Chairperson;”;

(j) by omitting from sub-section (1) the definition of "producer" and substituting the following definition:

‘Presiding Member’ means the Presiding Member of the Committee;”;

and

(k) by omitting sub-sections (2) and (3) and substituting the following sub-section:

“(2) For the purposes of this Act—

(a) the Chairperson may be referred to as the Chairman or the Chairwoman, as the case requires; and

(b) the Deputy Chairperson may be referred to as the Deputy Chairman or the Deputy Chairwoman, as the case requires.”.

Repeal of section 5

4. Section 5 of the Principal Act is repealed.

5. After section 5 of the Principal Act the following section is inserted:

Declared winemakers organisations

“5A. Where the Minister considers that an organisation is a national organisation which is representative of winemakers, the Minister may, by notice in writing published in the Gazette, declare that organisation to be a declared winemakers organisation.”.

Functions of Corporation

6. Section 7 of the Principal Act is amended by omitting paragraph (d) and substituting the following paragraph:

“(d) to conduct, arrange for, and assist in, research relating to the marketing of grape products; and”.

Powers of Corporation

7. Section 8 of the Principal Act is amended by omitting sub-sections (2) and (3) and substituting the following sub-sections:

“(2) Without limiting the generality of sub-section (1), the powers of the Corporation referred to in that sub-section include power—

(a) to control the export of grape products from Australia by determining the persons, other than the Corporation, who shall be permitted to export grape products and the conditions under which such exports will be permitted;

(b) at the request of a person engaging, or proposing to engage, in the export of a grape product, to co-ordinate activities relating to the promotion of the export of the grape product;

(c) where a grape product proposed to be exported from Australia to a foreign country meets the requirements of that country for
importation into that country, issue certificates that the product meets those requirements;

d) to the extent required to promote the export of grape products from Australia, or the sale of grape products overseas, by persons other than the Corporation, to buy, sell or otherwise engage in trade in grape products and do all things necessary or convenient for engaging in that trade;

e) to engage, or make arrangements with, persons, organisations or companies to perform work, or act as agent, for the Corporation, whether in Australia or overseas;

f) to charge such fees as are fair and proper to enable the Corporation to meet costs incurred by the Corporation in administering licensing arrangements relating to the export of grape products (including costs in relation to the grant or renewal of licences) and in ensuring that persons who are licensed to export grape products comply with the conditions under which the export of the grape products is permitted;

g) to charge for the provision of services, or the performance of work, by, or on behalf of, the Corporation; and

h) to waive the payment of fees and charges payable to the Corporation.

“(3) Subject to sub-section 31K (4), the Corporation shall endeavour to ensure, to the extent that it is practicable to do so, that the performance at any time of its functions and the exercise at any time of its powers is consistent with, and designed to give effect to, the provisions of any corporate plan and of any annual operational plan in force at that time.”.

Committees

8. Section 11 of the Principal Act is amended by inserting after subsection (1) the following sub-section:

“(1A) Without limiting sub-section (1), the Corporation may appoint a committee under that sub-section to perform the functions appropriate for an executive committee of the Corporation.”.

9. Sections 13 to 19 (inclusive) of the Principal Act are repealed and the following sections are substituted:

Membership of Corporation

“13. (1) The Corporation shall consist of—

(a) a Chairperson;

(b) a Government member; and

(c) 6 other members.

“(2) The members shall be appointed by the Minister in writing.

“(3) The members shall be appointed as part-time members.
“(4) The presiding officer (however described) of a declared winemakers organisation, or the deputy of such a presiding officer, shall not be appointed as a member.

“(5) The Minister shall not appoint a person to be a member referred to in paragraph (1) (c) unless the Minister is satisfied that the person has knowledge of, or experience in, winemaking, grape growing, marketing, finance, administration or business management.

“(6) The members referred to in paragraph (1) (c) shall be appointed from persons nominated by the Selection Committee in accordance with section 29F.

“(7) A member holds office on such terms and conditions (in respect of matters not provided for by this Act) as are determined by the Minister in writing.

“(8) The performance of the functions and the exercise of the powers of the Corporation are not affected by reason only of there being a vacancy or vacancies in the membership of the Corporation.

Term of office of members

“14. (1) Subject to this Act, the Chairperson or a member referred to in paragraph 13 (1) (c) holds office for such period, not exceeding 3 years, as is specified in the instrument of appointment, but he or she is eligible for re-appointment.

“(2) The member referred to in paragraph 13 (1) (b) holds office during the pleasure of the Minister.

“(3) Subject to sub-section (4), a person who has attained the age of 65 years shall not be appointed as a member and a person shall not be appointed as a member for a period that extends beyond the day on which the person will attain the age of 65 years.

“(4) Sub-section (3) does not apply to the appointment of a person as a member if the Minister is satisfied that that person possesses special skills that the Corporation requires for the performance of its functions.

“(5) Whenever a vacancy occurs in the office of Chairperson or of a member referred to in paragraph 13 (1) (c) before the expiration of the person's term of office, the Minister may, in accordance with, and subject to, section 13, appoint a person to the office for the remainder of that period.

Deputy Chairperson

“15. (1) The Minister shall, by writing signed by the Minister, appoint a member other than the Chairperson or the member referred to in paragraph 13 (1) (b) to be Deputy Chairperson of the Corporation.
“(2) The Minister shall not appoint a member as the Deputy Chairperson unless the Minister has consulted with the Chairperson and the Presiding Member concerning the appointment.

“(3) Subject to this Act, the Deputy Chairperson holds office for such period as is specified in the instrument of appointment, but he or she is eligible for re-appointment.

“(4) The Minister may, at any time, terminate an appointment under sub-section (1).

“(5) A member holding office as Deputy Chairperson may resign that office by writing signed by him or her and delivered to the Minister.

“(6) A member holding office as Deputy Chairperson ceases to hold that office if he or she ceases to be a member.

“(7) Whenever a vacancy occurs in the office of Deputy Chairperson before the expiration of the period of his or her appointment, the Minister may, in accordance with this section, appoint another member to hold that office for the remainder of that period.

“(8) While the office of Chairperson is vacant or the Chairperson is absent from Australia or is, for any other reason, unable to perform the functions of the office of Chairperson and the Deputy Chairperson is available to perform the functions of the office of Chairperson, the Deputy Chairperson has and may exercise all the powers, and shall perform all the functions, of the Chairperson under this Act.”.

Leave of absence

“16. (1) The Minister may grant leave of absence to the Chairperson from a meeting or meetings of the Corporation.

“(2) The Chairperson may grant leave of absence to another member from a meeting or meetings of the Corporation.

Resignation of members

“17. A member may resign from the office of member by writing signed by the member delivered to the Minister.”.

Termination of appointments

10. Section 20 of the Principal Act is amended—

(a) by omitting sub-sections (2) and (3); and

(b) by omitting paragraphs (4) (c) and (d) and substituting the following paragraphs:

“(c) being a member to whom sub-section 40 (7) applies, fails, without reasonable excuse, to comply with the condition referred to in that sub-section;

(d) becomes the presiding officer (however described) of a declared winemakers organisation or the deputy of such a presiding officer; or
(e) is absent from 3 consecutive meetings of the Corporation otherwise than—
   (i) on business of the Corporation undertaken with the approval of the Corporation or of a committee of the Corporation; or
   (ii) on leave of absence granted under section 16,".

11. Section 21 of the Principal Act is repealed and the following section is substituted:

Disclosure of interests by members of Corporation

21. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Corporation shall, as soon as possible after the relevant facts have come to the knowledge of the member, disclose the nature of that interest at a meeting of the Corporation.

“(2) A disclosure under sub-section (1) shall be recorded in the minutes of the meeting of the Corporation and the member shall not, unless the Minister or the Corporation otherwise determines—
   (a) be present during any deliberation of the Corporation with respect to that matter; or
   (b) take part in any decision of the Corporation with respect to that matter.

“(3) For the purpose of the making of a determination by the Corporation under sub-section (2) in relation to a member who has made a disclosure under sub-section (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not—
   (a) be present during any deliberation of the Corporation for the purpose of making the determination; or
   (b) take part in the making by the Corporation of the determination.

“(4) A member who is a wine maker or a grape grower shall not be taken to have a pecuniary interest in a matter being considered or about to be considered by the Corporation by reason only of being a winemaker or a grape grower.”.

Meetings of Corporation

12. Section 22 of the Principal Act is amended—
   (a) by omitting from sub-section (2) “The Minister or the Chairman” and substituting “The Chairperson”;
   (b) by omitting from sub-section (3) “8” and substituting “5”;
   (c) by omitting from sub-section (4) “Chairman” and substituting “Chairperson”;
Repeal of Part IV

13. Part IV of the Principal Act is repealed.

14. After Part IV of the Principal Act the following Part is inserted:

“PART IVA—AUSTRALIAN WINE AND BRANDY CORPORATION SELECTION COMMITTEE

Establishment of Committee

“29A. A Committee by the name of the Australian Wine and Brandy Corporation Selection Committee is established.

Functions of Committee

“29B. The functions of the Committee are—

(a) to select persons to be nominated for appointment as members of the Corporation referred to in paragraph 13 (1) (c); and

(b) to nominate persons so selected to the Minister for appointment as members of the Corporation.

Powers of Committee

“29C. The Committee has power to do all things that are necessary or convenient to be done for, or in connection with, the performance of its functions.

Minister may request nominations

“29D. The Minister may, by notice in writing given to the Presiding Member, request the Committee to give to the Minister, within the period specified in the notice—

(a) written nominations of persons for appointment as members of the Corporation referred to in paragraph 13 (1) (c); or

(b) where a casual vacancy occurs in the office of a member of the Corporation referred to in paragraph (a)—a written nomination of a person for appointment to that office.

Selection of persons by Committee

“29E. (1) The Committee shall not nominate a person for appointment as a member of the Corporation unless the person possesses one or more of the qualifications referred to in sub-section 13 (5).

“(2) The Committee shall not nominate a person for appointment as a member of the Corporation if—
(a) the appointment of the person as a member is prohibited by subsection 13 (4);
(b) the person is a member of the Committee; or
(c) the person has been a member of the Committee within 12 months of the day on which the nomination is given to the Minister.

Nomination

"29F. (1) Where the Minister gives a request to the Presiding Member under section 29D—
(a) the Committee shall, before the end of the period specified in the notice, select a person or persons to be nominated for appointment to the office or offices concerned; and
(b) the Presiding Member shall, on behalf of the Committee, before the end of that period, give to the Minister the written nomination or nominations concerned.

(2) The Committee shall give to the Minister only one nomination in respect of each appointment to be made by the Minister.

(3) Where the Committee proposes to nominate a person for appointment as a member of the Corporation, the Presiding Member shall cause to be prepared and attached to the nomination a statement setting out—
(a) details of the person's qualifications and experience; and
(b) such other information relating to the person as the Committee thinks will assist the Minister in considering whether to appoint the person.

(4) The Committee may nominate a person for appointment even though the Minister has previously rejected a nomination of that person or the Committee has previously decided not to nominate the person for appointment.

Minister may reject nominations

"29G. Where the Minister is not satisfied that a person nominated by the Committee for appointment as a member of the Corporation should be appointed as such a member, the Minister may, by notice in writing given to the Presiding Member, reject the nomination and may include in that notice a further request under section 29D for a nomination of a person for appointment to the office concerned.

Membership of Committee

"29H. (1) The Committee shall consist of the following members:
(a) a Presiding Member; and
(b) such other number of members as is determined by the Minister.

(2) The members of the Committee shall be appointed in writing by the Minister and, subject to this Act, hold office for such period, not
exceeding 3 years, as is specified in the instrument of appointment, but are eligible for re-appointment.

“(3) Each member of the Committee referred to in paragraph (1) (b) shall be a person who has been nominated by a declared winemakers organisation.

“(4) All members of the Committee shall be appointed as part-time members.

“(5) A person who is a member of the Corporation is not eligible to be appointed under sub-section (2) as a member of the Committee.

“(6) The appointment of a member of the Committee is not invalidated, and shall not be called in question, because of a defect or irregularity in or in connection with the member’s nomination or appointment.

“(7) The exercise of a power or the performance of a function by the Committee is not invalidated because of a vacancy or vacancies in the membership of the Committee.

Acting Presiding Member

“29J. (1) The Minister may appoint a person to act as Presiding Member—

(a) during a vacancy in the office of Presiding Member (whether or not an appointment has previously been made to the office); or

(b) during any period, or during all periods, when the Presiding Member is absent from Australia or is, for any other reason, unable to perform the functions of the office of Presiding Member,

but a person appointed to act during a vacancy shall not continue to act for more than 12 months.

“(2) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

“(3) The Minister may determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as the Presiding Member.

“(4) The Minister may terminate an appointment made under sub-section (1) at any time.

“(5) Where a person is acting as Presiding Member in accordance with paragraph (1) (b) and the office of Presiding Member becomes vacant while the person is so acting, then, subject to sub-section (2), the person may continue to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the day on which the vacancy occurred expires, whichever first happens.
“(6) The appointment of a person to act as Presiding Member ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Minister.

“(7) While a person is acting as Presiding Member, the person has and may exercise all the powers, and shall perform all the functions, of the Presiding Member under this Act.

“(8) Anything done by or in relation to a person purporting to act under sub-section (1) is not invalid on the ground that—
(a) the occasion for the person’s appointment had not arisen;
(b) there is a defect or irregularity in connection with the person’s appointment;
(c) the person’s appointment had ceased to have effect; or
(d) the occasion for the person to act had not arisen or had ceased.”.

Casual vacancy

“29K. Where a member of the Committee ceases to hold office before the expiration of the term of office of the member of the Committee—
(a) in the case of the Presiding Member—the Minister may appoint a person to be the Presiding Member until the expiration of that term; or
(b) in the case of any other member of the Committee—the Minister may appoint a person to be a member until the expiration of that term.

Remuneration and allowances of members of Committee

“29L. (1) A member of the Committee shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, the member shall be paid such remuneration as is prescribed.

“(2) A member shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the Remuneration Tribunals Act 1973, other than sub-sections 7 (9) and (13) of that Act.

Leave of absence

“29M. (1) The Minister may grant leave of absence to the Presiding Member from a meeting of the Committee.

“(2) The Presiding Member may grant leave of absence to another member of the Committee from a meeting of the Committee.

Resignation

“29N. A member of the Committee may resign from office by writing signed by the member and delivered to the Minister.
Determination of appointment of members of Committee

"29P. (1) The Minister may terminate the appointment of a member of the Committee by reason of misbehaviour or physical or mental incapacity.

(2) If a member of the Committee—
(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
(b) fails, without reasonable excuse, to comply with his or her obligations under section 29Q; or
(c) is absent, without leave of absence under section 29M, from 3 consecutive meetings of the Committee,
the Minister shall terminate the appointment of the member of the Committee.

Disclosure of interests by members of Committee

"29Q. (1) A member of the Committee who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Committee shall, as soon as possible after the relevant facts have come to the knowledge of the member, disclose the nature of that interest at a meeting of the Committee.

(2) A disclosure under sub-section (1) shall be recorded in the minutes of the meeting of the Committee and the member shall not, unless the Minister or the Committee otherwise determines—
(a) be present during any deliberation of the Committee with respect to that matter; or
(b) take part in any decision of the Committee with respect to that matter.

(3) For the purpose of the making of a determination by the Committee under sub-section (2) in relation to a member who has made a disclosure under sub-section (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not—
(a) be present during any deliberation of the Committee for the purpose of making the determination; or
(b) take part in the making by the Committee of the determination.

(4) A member of the Committee who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Committee in accordance with section 29S shall, as soon as practicable after the relevant facts have come to the knowledge of the member, disclose the nature of that interest to the Minister.

(5) A member of the Committee who is required to make a disclosure under sub-section (4) in respect of a matter shall not, unless the Minister otherwise determines, sign a document with respect to that matter in accordance with section 29S.
“(6) A member of the Committee who is a winemaker shall not be taken to have a pecuniary interest in a matter being considered or about to be considered by the Committee by reason only of being a winemaker.

Meetings of Committee

“29R. (1) Meetings of the Committee shall be held at such times and places as the Committee from time to time determines.

“(2) A meeting of the Committee may be called by the Presiding Member.

“(3) At a meeting of the Committee, a number one less than the number of members of the Committee constitutes a quorum.

“(4) The Presiding Member shall preside at all meetings of the Committee at which the Presiding Member is present.

“(5) If the Presiding Member is not present at a meeting of the Committee, the members of the Committee who are present shall elect one of their number to preside at the meeting.

“(6) A question arising at a meeting of the Committee shall be decided by a majority of the votes of the members of the Committee present and voting.

“(7) The member of the Committee presiding at a meeting of the Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

“(8) The Committee shall keep minutes of its proceedings.

Resolutions without meetings

“29S. Where—

(a) a copy of a document setting out a proposed resolution of the Committee comes into the possession of the number of members of the Committee constituting a quorum; and

(b) a majority of those members sign a copy of the document, a resolution of the Committee in the terms set out in the document shall be deemed to have been passed at a meeting of the Committee on the day on which the copies of the document were signed or, if the members of the Committee who signed the copies of the document did not sign on the same day, on the latest day on which a copy of the document was signed by such a member.

Staff and consultants

“29T. (1) The Presiding Member may, on behalf of the Committee, engage persons to perform administrative and clerical services in connection with the performance of its functions.

“(2) The Presiding Member may, on behalf of the Committee, engage persons having suitable qualifications and experience as consultants to the
Committee to assist the Committee in identifying persons suitable for nomination to the Minister.

“(3) The terms and conditions of engagement of persons engaged under sub-section (1) or (2) shall be such as are determined by the Committee.”

15. After Part IV A of the Principal Act the following Part is inserted: 5

"PART IVB—ANNUAL MEETING OF REPRESENTATIVES OF THE INDUSTRY"

Corporation to convene annual meeting

“29u. (1) The Corporation shall, within 3 months after the annual report of the Corporation is laid before a House of the Parliament or within such longer period as is approved by the Minister, cause an annual meeting of representatives of the industry to be convened at a time and place determined by the Corporation.

“(2) The Corporation shall, not later than 42 days before the intended day of an annual meeting of representatives of the industry, send a notice of the day, time and place of the meeting to each person who, on the day on which the notices are sent, was known by the Corporation to be a member of the executive of a declared winemakers organisation.

Purpose of annual meeting

“29v. The purpose of an annual meeting of the representatives of the industry is to provide an opportunity for representatives of the industry—

(a) to consider the most recent annual report of the Corporation;

(b) to receive an address by the Chairperson with respect to the performance of the Corporation in the year to which the annual report relates and with respect to the economic outlook for the industry, and the intended activities of the Corporation, in the year next following that year; and

(c) to question the members of the Corporation concerning any aspect of the Corporation’s activities during the year to which the annual report relates and any aspect of the intended activities of the Corporation.

Conduct of annual meeting

“29w. (1) An annual meeting of representatives of the industry may be attended by—

(a) the members of the Corporation;

(b) members of the executives of declared winemakers organisations; and

(c) such members of the staff of the Corporation as the Chairperson determines to be appropriate having regard to the business of the meeting.
“(2) The Chairperson shall preside at an annual meeting at which he or she is present.

“(3) The Corporation shall cause a record to be kept of the proceedings of an annual meeting of representatives of the industry.”.

5 Employees

16. Section 30 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-sections:

“(2) The terms and conditions of employment (including remuneration) of the person holding the position of principal employee (however described) of the Corporation shall be such as are, subject to the approval of the Minister, determined by the Corporation.

“(3) The terms and conditions of employment (including remuneration) of an employee, other than the employee referred to in sub-section (2), shall be such as are determined by the Corporation.”.

17. After Part V of the Principal Act the following Part is inserted:

“PART VA—OPERATION OF CORPORATION

“Division 1—Corporate Plans

Corporation to develop corporate plans

“31. (1) The Corporation shall, in accordance with this section, develop, for the purpose of the more effective performance by the Corporation of its functions, a plan—

(a) defining what, in the opinion of the Corporation, should be the principal objectives of the Corporation;

(b) giving a broad outline of the strategies that should, in the opinion of the Corporation, be pursued in achieving those objectives;

(c) setting out the Corporation's assessment, for the period to which the plan relates, of the market outlook and the economic outlook for the industry.

“(2) The first corporate plan shall relate to such period, being a period commencing on 1 November 1986 or such later day as the Minister approves and ending on 30 June 1989, 30 June 1990 or 30 June 1991, as the Corporation determines.

“(3) Each subsequent corporate plan shall relate to such period, being a period of 3, 4 or 5 years commencing on the 1 July immediately following the end of the period to which the previous plan related, as the Corporation determines.
Agreement to corporate plans

“31A. (1) The Corporation shall cause a copy of a corporate plan prepared under section 31 to be given to the Minister—

(a) in the case of the first plan—on or before 1 October 1986 or such later day as the Minister approves; or

(b) in any other case—at least 3 months before the commencement of the period to which the plan relates.

“(2) Where a copy of a corporate plan is given to the Minister, the Minister may, by notice in writing given to the Corporation—

(a) agree to the plan; or

(b) if the Minister is of the opinion that, in the interests of the industry or of a particular sector of the industry, the plan should be revised in some respect—request the Corporation to revise the plan appropriately.

“(3) The Minister shall include in the notice of request under paragraph (2) (b) a statement setting out the Minister’s reasons for making the request.

“(4) Where the Corporation receives a request under paragraph (2) (b), the Corporation shall consider the request and statement of reasons, make such revision of the corporate plan as it considers appropriate and re-submit the revised plan to the Minister for the Minister’s agreement.

“(5) A corporate plan comes into force—

(a) at the commencement of the period to which the plan relates; or

(b) on the day on which the Corporation receives notice of the Minister’s agreement,

whichever is the later.

Variation of corporate plans by Corporation

“31B. (1) Subject to sub-section (4), the Corporation shall not vary a corporate plan of its own motion except with the agreement of the Minister.

“(2) Where the Corporation wishes to vary a corporate plan, the Corporation shall prepare written proposals for the variations and give a copy of the proposals to the Minister together with a statement setting out the Corporation’s reasons for making the proposals.

“(3) The Minister may, after considering proposals for variation of a corporate plan submitted under sub-section (2) and the reasons for making those proposals, by notice in writing given to the Corporation, agree to or reject the proposals.

“(4) Nothing in this section prevents the Corporation making variations of a minor nature to a corporate plan.
Variations of corporate plans at request of Minister

"31C. (1) The Minister may, by notice in writing given to the Corporation, request the Corporation to vary a corporate plan in the manner set out in the notice of request.

(2) Where the Minister makes a request under sub-section (1), the Minister shall include in the notice of request a statement setting out the Minister's reasons for making the request.

(3) Where the Corporation receives a request under sub-section (1), the Corporation shall consider the request and statement of reasons, prepare written proposals for such variation of the plan as the Corporation considers appropriate and submit those proposals to the Minister for the Minister's agreement.

(4) The Minister may, after considering proposals for variation of a corporate plan submitted under sub-section (3), by notice in writing given to the Corporation, agree to or reject the proposals.

Date of effect of variations

"31D. Where—

(a) a corporate plan has come into force; and

(b) a variation to the plan is agreed to by the Minister under section 31B or 31C or the Corporation makes a variation of a minor nature to the plan,

the plan shall continue in force on and after the day on which the Corporation receives notice of the Minister's agreement or the day on which the Corporation makes the variation of a minor nature, as the case may be, as if the Minister had originally agreed to the plan as so varied.

Notice of variation of corporate plans

"31E. Where a variation of a corporate plan is agreed to by the Minister in accordance with section 31B or 31C, particulars of the variation shall be included in the annual report of the Corporation for the year in which the variation was made.

"Division 2—Annual Operational Plans

Corporation to develop annual operational plans

"31F. (1) Subject to sub-section (2), the Corporation shall, in relation to each financial year of a period to which a corporate plan relates or to which an intended corporate plan will relate, develop an annual operational plan setting out particulars of the action that the Corporation intends to take in order to give effect to or further, during that year, the matters set out in that corporate plan.

(2) The first annual operational plan shall relate to the period commencing on the day on which the first corporate plan comes into force and ending on the first 30 June after that day and, for the purposes of the
operation of sub-section (1) in relation to that first annual operational plan, references in that sub-section to a financial year shall be read as references to the period to which that first plan relates.

“(3) Each subsequent annual operational plan shall relate to the financial year commencing immediately after the end of the period to which the previous annual operational plan related.

**Agreement to annual operational plans**

“31G. (1) The Corporation shall cause a copy of an annual operational plan prepared under section 31F to be given to the Minister—

(a) in the case of the first plan—on or before 1 October 1986 or such later day as the Minister approves; or

(b) in any other case—at least 2 months before the commencement of the period to which the plan relates.

“(2) Where a copy of an annual operational plan is given to the Minister, the Minister may, by notice in writing given to the Corporation—

(a) agree to the plan; or

(b) if the Minister is of the opinion that the plan is inconsistent with the provisions of the corporate plan that relates, or the intended corporate plan that will relate, to a period that includes, or will include, the period to which the first-mentioned plan will relate—request the Corporation to revise the first-mentioned plan appropriately.

“(3) The Minister shall include in the notice of a request under paragraph (2) (b) a statement setting out the Minister’s reasons for making the request.

“(4) Where the Corporation receives a request under paragraph (2) (b), the Corporation shall consider the request and statement of reasons, make such revision of the annual operational plan as it considers appropriate and re-submit the revised plan to the Minister for the Minister’s agreement.

“(5) An annual operational plan comes into force—

(a) at the commencement of the period to which the plan relates; or

(b) on the day on which the Corporation receives notice of the Minister’s agreement,

whichever is the later.

**Variation of annual operational plans**

“31H. (1) Sections 31B, 31C and 31D apply to annual operational plans in the same manner as those sections apply to corporate plans.

“(2) Where, if a proposed variation of a corporate plan were to be agreed to by the Minister, a relevant annual operational plan would not be consistent with the provisions of the corporate plan, the Corporation shall, at the time of submitting to the Minister for agreement proposals for variation to the corporate plan, also submit to the Minister proposals for appropriate variations of that annual operational plan.”.
Notice of variation of annual operational plan

"31J. Where a variation of an annual operational plan is agreed to by the Minister in accordance with section 31H, particulars of the variation shall be included in the annual report of the Corporation for the year in which the variation was made.

"Division 3—Directions

Directions to Corporation

"31K. (1) Except as provided by this section, the Corporation is not subject to direction by or on behalf of the Commonwealth Government.

(2) Subject to this section, where the Minister is satisfied that, because of the existence of exceptional circumstances, it is necessary to give a direction to the Corporation in order to ensure that the performance of the functions, or the exercise of the powers, of the Corporation does not conflict with major government policies, the Minister may, by notice in writing to the Corporation, give the direction to the Corporation with respect to the performance of its functions and the exercise of its powers.

(3) The Minister shall not give a direction under sub-section (2) unless and until the Minister has given the Chairperson—

(a) notice in writing that the Minister is contemplating giving the direction; and

(b) an adequate opportunity to discuss with the Minister the need for the proposed direction.

(4) The Corporation shall comply with any direction given under sub-section (2).

(5) Where the Minister gives a direction to the Corporation under sub-section (2)—

(a) the Minister shall cause a notice in writing setting out particulars of the direction to be published in the Gazette as soon as practicable after giving the direction;

(b) the Minister shall cause a copy of that notice to be laid before each House of the Parliament within 15 sitting days of the House after giving the direction;

(c) particulars of the direction shall be included in the annual report of the Corporation for the year in which the direction was given; and

(d) that report shall include particulars of the impact of that direction on the operations of the Corporation.".
18. Sections 32, 33 and 34 of the Principal Act are repealed and the following sections are substituted:

**Payments to Corporation**

"32. There shall be paid to the Corporation out of the Consolidated Revenue Fund, which is appropriated accordingly, amounts equal to—

(a) so much of the amounts from time to time received by the Commonwealth as levy under the Wine Grapes Levy Act 1979 as is so received by virtue of sub-paragraph 6 (1) (a) (i) or 6 (1) (b) (i) of that Act; and

(b) so much of the amounts (if any) received by the Commonwealth under section 5 of the Wine Grapes Levy Collection Act 1979 as is attributable to non-payment of levy referred to in sub-paragraph 6 (1) (a) (i) or 6 (1) (b) (i) of the Wine Grapes Levy Act 1979.

**Payments by Corporation to Commonwealth**

"33. Where a refund is made by the Commonwealth in accordance with section 7 of the Wine Grapes Levy Collection Act 1979 in respect of an amount that has been paid or overpaid to the Commonwealth by way of an amount of levy that is payable to the Commonwealth by virtue of sub-paragraph 6 (1) (a) (i) or 6 (1) (b) (i) of the Wine Grapes Levy Act 1979, the Corporation shall pay to the Commonwealth an amount equal to the amount of the refund.

**Borrowing**

"34. (1) The Corporation may, with the approval of the Minister—

(a) borrow money otherwise than from the Commonwealth; or

(b) raise money otherwise than by borrowing,

on terms and conditions that are specified in, or consistent with, the approval.

"(2) Without limiting the generality of sub-section (1), the Corporation may, under that sub-section, borrow money, or raise money otherwise than by borrowing, by dealing with securities.

"(3) A borrowing of money, or a raising of money otherwise than by borrowing, under sub-section (1), may be made, in whole or in part, in a currency other than Australian currency.

"(4) An approval may be given under sub-section (1) in relation to a particular transaction or in relation to transactions included in a class of transactions.

"(5) An approval under sub-section (1) shall be given in writing.

"(6) For the purposes of this section—

(a) the issue by the Corporation of an instrument acknowledging a debt in consideration of—

(i) the payment or deposit of money; or

(ii) the provision of credit,

otherwise than in relation to a transaction that is in the ordinary course of the day-to-day operations of the Corporation shall be
deemed to be a raising by the Corporation, otherwise than by borrowing, of an amount of money equal to the amount of the money paid or deposited or the value of the credit provided, as the case may be; and

(b) the obtaining of credit by the Corporation otherwise than in relation to a transaction that is in the ordinary course of the day-to-day operations of the Corporation shall be deemed to be a raising by the Corporation, otherwise than by borrowing, of an amount of money equal to the value of the credit so obtained.

“(7) In this section, ‘securities’ includes stocks, debentures, debenture stocks, notes, bonds, promissory notes, bills of exchange and similar instruments or documents.

“(8) A reference in this section to dealing with securities includes a reference to—

(a) creating, executing, entering into, drawing, making, accepting, indorsing, issuing, discounting, selling, purchasing or re-selling securities;

(b) creating, selling, purchasing or re-selling rights or options in respect of securities; and

(c) entering into agreements or other arrangements relating to securities.

Corporation may give security

“34A. The Corporation may give security over the whole or any part of its land or other assets for—

(a) the repayment by the Corporation of money borrowed by the Corporation under paragraph 34 (1) (a) and the payment by the Corporation of interest (including any interest on that interest) on money so borrowed; or

(b) the payment by the Corporation of amounts (including any interest) that the Corporation is liable to pay with respect to money raised by the Corporation under paragraph 34 (1) (b).

Borrowings not otherwise permitted

“34B. The Corporation shall not borrow money, or raise money otherwise than by borrowing, except in accordance with section 34.”.

Application of money of Corporation

19. Section 35 of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

“(aa) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Presiding Member or the Committee in or in connection with the performance of the functions, or the exercise of the powers, of the Committee under this Act;”.

"Australian Wine and Brandy Corporation Amendment No., 1986"
Repeal of section 37

20. Section 37 of the Principal Act is repealed.

Application of Division 2 of Part XI of Audit Act

21. Section 38 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) Division 2 of Part XI of the Audit Act 1901 applies in relation to the Corporation—

(a) as if the reference in sub-section 63D (1) of that Division to an approved bank or approved banks included a reference to the Reserve Bank of Australia;

(b) where an auditor for the Corporation has been appointed under section 38A, as if the references in sections 63G and 63H to the Auditor-General were references to the auditor so appointed; and

(c) subject to the modification contained in sub-section (3) of this section.”.

22. After section 38 of the Principal Act the following section is inserted:

Appointment of commercial auditors

“38A. (1) The Corporation may request the Minister, in writing, to appoint a company auditor specified in the request to be the auditor of the Corporation.

“(2) Where the Minister receives a request under sub-section (1), the Minister shall cause particulars of the request to be given to the Auditor-General.

“(3) Where particulars of a request under sub-section (1) are given to the Auditor-General under sub-section (2), the Auditor-General shall consider whether or not the company auditor referred to in the request is suitable to be the auditor of the Corporation and shall inform the Minister in writing of the Auditor-General’s decision and of the reasons for that decision.

“(4) Where the Auditor-General has informed the Minister that the Auditor-General is satisfied that a company auditor is suitable to be the auditor of the Corporation, the Minister shall cause to be given to the Chairman of the Joint Committee of Public Accounts particulars of the request and of the Auditor-General’s advice.

“(5) The Joint Committee of Public Accounts shall consider the advice given by the Auditor-General and shall inform the Minister in writing whether or not the Committee agrees to the appointment of the company auditor as the auditor of the Corporation.

“(6) If the Joint Committee of Public Accounts informs the Minister that it agrees to the appointment of a company auditor as the auditor of the Corporation, the Minister may, in writing, appoint that auditor accordingly.
“(7) Where the Minister makes or refuses to make an appointment under sub-section (6), the Minister shall inform the Corporation, in writing, of the Minister’s decision and, in the case of a refusal, of the reasons for that decision.

“(8) In this section, ‘company auditor’ means a firm carrying on the business of auditing accounts.”.

Remuneration and allowances of members of Corporation, &c.

23. Section 40 of the Principal Act is amended—

(a) by adding at the end of paragraph (1) (a) “or”;

(b) by omitting paragraph (1) (b);

(c) by omitting from sub-section (2) “A person” and substituting “Subject to this section, a person”;

(d) by omitting from sub-section (3) “A person” and substituting “Subject to this section, a person”; and

(e) by omitting sub-section (5) and substituting the following sub-sections:

“(5) Payments under this section shall be made out of the funds of the Corporation.

“(6) If—

(a) a person to whom this section applies is also a member of, or a candidate for election to, the Parliament of a State; and

(b) under the law of that State the person would not be eligible to remain, or to be elected as, a member of that Parliament if he or she were entitled to remuneration under this Act,

the person shall not be paid remuneration or allowances under this Act but shall be reimbursed such expenses as the person reasonably incurs because of the person’s performing the functions of the office under this Act held by the person.

“(7) If a person to whom this section applies is also—

(a) a member of the Parliament of a State (other than a State referred to in sub-section (6)); or

(b) in the service or employment of a State or an authority of a State, or holds or performs the duties of any office or position established by or under a law of a State, on a full-time basis,

it is a condition of the person’s holding the office under this Act held by the person that the person pay to the State, within one month of receiving an amount of remuneration under this Act, an amount equal to that first-mentioned amount, and the person—

(c) shall not be paid allowances under this Act; and

(d) shall be reimbursed such expenses as the person reasonably incurs because of the person’s performing the functions of the office under this Act held by the person.
“(8) An amount payable to a State by a person under sub-section (7) is a debt due to the State and the State may recover that amount by action against the person in a court of competent jurisdiction.

“(9) In this section—

‘Parliament’, in relation to the Northern Territory, means the Legislative Assembly of the Northern Territory;

‘State’ includes the Northern Territory.”.

Indemnity

24. Section 41 of the Principal Act is amended—

(a) by omitting “or a deputy of a member”; and

(b) by omitting “, or the deputy of the member, as the case may be,”.

Delegation

25. Section 43 of the Principal Act is amended by omitting from sub-section (1) “, to the Executive Committee”.

Regulations

26. Section 46 of the Principal Act is amended—

(a) by omitting paragraphs (1) (a) and (b);

(b) by omitting from sub-paragraph (1) (d) (i) “Minister” and substituting “Corporation”;

(c) by omitting from sub-paragraph (1) (d) (i) “him” and substituting “it”; and

(d) by omitting sub-sections (2) and (3).

Penalties

27. The Principal Act is amended as set out in Schedule 1.

Sexist language

28. The Principal Act is amended as set out in Schedule 2.

Transitional—levy imposed before 1 July 1986

29. (1) Notwithstanding the repeal of section 32 of the Principal Act by this Act, that section continues to apply in respect of amounts (if any) received by the Commonwealth under section 4 or 5 of the Collection Act as levy, or penalty attributable to non-payment of levy, imposed on prescribed goods during a year that commenced before 1 July 1985.

(2) Notwithstanding the repeal of section 33 of the Principal Act by this Act, that section continues to apply in relation to—

(a) amounts (if any) paid to the Commonwealth in respect of prescribed goods that were, by virtue of section 8 of the Levy Act, exempt from levy, being amounts equal to the levy that, but for the exemption, would have been imposed on the goods by section 5 of the Levy Act during a year that commenced before 1 July 1985;
(b) amounts overpaid to the Commonwealth under section 4 or 5 of the Collection Act as levy, or penalty attributable to non-payment of levy, imposed on prescribed goods during a year that commenced before 1 July 1985.

(3) For the purposes of the Principal Act as amended by this Act, of the *Rural Industries Research Act 1985* and of any other law of the Commonwealth—

(a) where an amount (in this paragraph referred to as the "levy amount") is received by the Commonwealth under section 4 of the Collection Act as levy imposed on prescribed goods during the year that commenced on 1 July 1985—

(i) \( \frac{11}{24} \) of the levy amount shall be deemed to be an amount received by the Commonwealth under that section as levy under the Levy Act by virtue of sub-paragraph 6 (1) (a) (i) or 6 (1) (b) (i) of the Levy Act; and

(ii) the balance of the levy amount shall be deemed to be an amount received by the Commonwealth under that section as levy under the Levy Act by virtue of sub-paragraph 6 (1) (a) (ii) or 6 (1) (b) (ii) of the Levy Act; and

(b) where an amount (in this paragraph referred to as the "penalty amount") is received by the Commonwealth under section 5 of the Collection Act that is attributable to non-payment of levy imposed on prescribed goods during that year—

(i) \( \frac{11}{24} \) of the penalty amount shall be deemed to be an amount received by the Commonwealth under section 5 of the Collection Act that is attributable to non-payment of levy referred to in sub-paragraph 6 (1) (a) (i) or 6 (1) (b) (i) of the Levy Act; and

(ii) the balance of the penalty amount shall be deemed to be an amount received by the Commonwealth under section 5 of the Collection Act that is attributable to non-payment of levy referred to in sub-paragraph 6 (1) (a) (ii) and 6 (1) (b) (ii) of the Levy Act.

(4) In this section—

"Collection Act" means the *Wine Grapes Levy Collection Act 1979*;

"Levy Act" means the *Wine Grapes Levy Act 1979*;

"prescribed goods" and "year" have the same meanings respectively as they have in the Principal Act as amended by this Act.
Transitional—selection committees

30. After the commencement of section 14 and before 1 July 1986, Part IVA of the Principal Act as amended by that section has effect as if “of this Act as proposed to be amended by section 14 of the Australian Wine and Brandy Corporation Amendment Act 1986” were inserted—

(a) after “paragraph 13 (1) (c)” in paragraph 29B (a);
(b) after “paragraph 13 (1) (c)” in paragraph 29D (a);
(c) after “sub-section 13 (5)” in sub-section 29E (1); and
(d) after “sub-section 13 (4)” in paragraph 29E (2) (a).

SCHEDULE 1

AMENDMENTS RELATING TO PENALTIES

Sub-section 9 (4)—
Omit “$2,000”, substitute “$5,000”.

Sub-section 9 (5)—
Omit “$2,000”, substitute “$5,000”.

Sub-section 42 (4)—
Omit “Penalty: $1,000.”, substitute the following:
“Penalty:
(a) in the case of a natural person—$1,000 or imprisonment for 6 months, or both;
or
(b) in the case of a body corporate—$5,000.”.

Section 44—
Omit “Penalty: $2,000.”, substitute the following:
“Penalty:
(a) in the case of a natural person—$5,000; or
(b) in the case of a body corporate—$10,000.”.

Paragraph 46 (1) (h)—
Omit the paragraph, substitute the following paragraph:
“(h) providing for a penalty of—
(i) if the person is a natural person, a fine not exceeding $500; or
(ii) if the person is a body corporate, a fine not exceeding $2,500, for offences against the regulations.”.
AMENDMENTS RELATING TO SEXIST LANGUAGE

Paragraph 20 (4) (a)—
Insert “or her” after “his” (wherever occurring).

Paragraph 20 (4) (b)—
Insert “or her” after “his”.

Sub-section 22 (4)—
Omit “he”, substitute “the Chairperson”.

Sub-section 22 (12)—
Omit “his”, substitute “the person’s”.

Sub-section 40 (2)—
Omit “he”, substitute “the person”.

Sub-section 42 (1)—
(a) Omit “he”, substitute “the person”.
(b) Omit “him”, substitute “the person”.
(c) Omit “his”, substitute “the person’s”.

Sub-section 42 (2)—
(a) Omit “he”, substitute “the person”.
(b) Omit “him”, substitute “the person”.

Sub-section 42 (3)—
(a) Omit “he”, substitute “the person”.
(b) Omit “him” (wherever occurring), substitute “the person”.

NOTE

1. No. 161, 1980, as amended. For previous amendments, see No. 48, 1982; Nos. 72 and 165, 1984; and No. 65, 1985.