

South Australia

# Primary Industry Funding Schemes (Citrus Growers Fund) Regulations 2005

under the *Primary Industry Funding Schemes Act 1998*

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## Legislative history

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### 1—Short title

These regulations may be cited as the *Primary Industry Funding Schemes (Citrus Growers Fund) Regulations 2005*.

### 3—Interpretation

In these regulations—

**Act** means the *Primary Industry Funding Schemes Act 1998*;

**Board** means the South Australian Citrus Industry Development Board established under the *Citrus Industry Act 2005*;

**citrus fruit** means citrons, lemons, limes, grapefruit, mandarins, oranges, sevilles, tangerines or a hybrid of any of those fruits;

**citrus fruit product** means a product derived wholly or in part from citrus fruit;

**citrus grower** means a person who carries on the business of producing citrus fruit for sale;

**citrus packer** means a person who carries on the business of packing citrus fruit for sale by wholesale;

*citrus processor* means a person who carries on the business of processing citrus fruit into a citrus fruit product for sale by wholesale;

*financial year* means a period of 12 months commencing on 1 April;

*Fund*—see regulation 4.

#### **4—Citrus Growers Fund**

- (1) The *Citrus Growers Fund* (the *Fund*) is established.
- (2) The Fund will be administered by the Minister.
- (3) The Fund consists of—
  - (a) contributions paid or collected in accordance with these regulations; and
  - (b) income of the Fund from investment; and
  - (c) any other sums received by the Minister for payment into the Fund.

#### **5—Contributions to Fund**

- (1) Contributions to the Fund are payable by or on behalf of citrus growers as follows:
  - (a) the amount payable is 65 cents for each tonne of citrus fruit produced and sold by a citrus grower;
  - (b) contributions are payable monthly to the Board as collection agent for the Minister;
  - (c) contributions for a particular month fall due 28 days after the end of the month;
  - (d) if citrus fruit is sold by the citrus grower to a person who is not a citrus packer or citrus processor—
    - (i) the contributions for a particular month are payable in respect of the tonnage of citrus fruit sold during the month; and
    - (ii) the contributions are payable directly by the grower;
  - (e) if citrus fruit is sold by the citrus grower to a citrus packer or citrus processor—
    - (i) the contributions for a particular month are payable in respect of the tonnage of citrus fruit packed or processed during the month; and
    - (ii) the contributions are payable by the citrus packer or citrus processor on behalf of the citrus grower out of the amount payable to the citrus grower for the citrus fruit.
- (2) Each monthly payment of contributions must be accompanied by a statement setting out the name and address of each citrus grower by or on behalf of whom the contributions are paid and, for each grower, the tonnage of citrus fruit in respect of which the contributions are paid.
- (3) The Board must forward the statements and contributions to the Minister at intervals and in a manner determined by the Minister.
- (4) The Minister may make the statements available to Citrus Growers of South Australia Incorporated.

- (5) Refunds of contributions paid by or on behalf of a citrus grower in respect of citrus fruit sold during a financial year may be claimed by the citrus grower by notice in writing to the Minister given within April of the following financial year.
- (6) A person claiming a refund under subregulation (5) must supply the Minister with—
  - (a) evidence acceptable to the Minister of the contributions made by the claimant in respect of which the claim for refund is made; and
  - (b) if the Minister so requires, verification of that evidence in the form of a statutory declaration.
- (7) If the person satisfies the Minister that the person is entitled to a refund, the Minister must refund to the person the amount of the contributions paid by the person in respect of citrus fruit sold during the relevant financial year.

## **6—Application of Fund**

The Fund may be applied by the Minister for any of the following purposes:

- (a) payments to Citrus Growers of South Australia Incorporated for 1 or more of the following purposes:
  - (i) the reasonable operating and management expenses of the body;
  - (ii) fees for affiliation of the body with regional, State or national citrus or horticulture industry bodies;
  - (iii) promoting the South Australian citrus industry, including through industry field days, conferences and other events;
  - (iv) undertaking or facilitating research and development, or the collection and dissemination to citrus growers of information, relevant to the citrus industry;
  - (v) representation of citrus growers, or participation of the body, in regional, State or national citrus or horticulture industry forums;
  - (vi) programs designed to encourage communication and cooperation between citrus growers, citrus packers, citrus processors and persons marketing citrus fruit or citrus fruit products;
  - (vii) other purposes of the body;
- (b) payments for other purposes for the benefit of citrus growers;
- (c) payment of the expenses of administering the Fund;
- (d) repayment of contributions to the Fund under regulation 5.

## **7—Exclusion from benefits of person in default in relation to contributions**

- (1) A person who is in default in relation to contributions to the Fund is not entitled to receive direct benefits or services funded by payments from the Fund.
- (2) A person is *in default in relation to contributions to the Fund* if, within the immediately preceding 2 financial years—
  - (a) all or some of the contributions payable to the Fund by the person have not been paid; or
  - (b) the person has been refunded contributions from the Fund.

## **8—False or misleading statements**

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided, or record kept, for the purposes of these regulations.

Maximum penalty: \$5 000.

## **Schedule 1—Transitional provisions for 2009 variation**

### **1—Interpretation**

In this Schedule—

*prescribed period* means 1 November 2008 to 30 September 2009;

*prescribed proportion* means 50/115.

### **2—Refund of prescribed contributions**

- (1) A refund of the prescribed proportion of contributions paid by or on behalf of a citrus grower in respect of citrus fruit sold during the prescribed period may be claimed by the citrus grower by giving notice in writing to the Minister on or before 31 December 2009.
- (2) A person claiming a refund under subclause (1) must supply the Minister with—
  - (a) evidence acceptable to the Minister of the contributions made by the claimant in respect of which the claim for refund is made; and
  - (b) if the Minister so requires, verification of that evidence in the form of a statutory declaration.
- (3) If the person satisfies the Minister that the person is entitled to a refund, the Minister must refund to the person the prescribed proportion of the contributions paid by the person in respect of citrus fruit sold during the prescribed period.

### **3—Deduction of prescribed contributions**

If the prescribed proportion of contributions paid by or on behalf of a citrus grower in respect of citrus fruit sold during the prescribed period is refunded to the grower under this Schedule, any further claim under regulation 5 for a refund of contributions paid by or on behalf of the grower in respect of citrus fruit sold during that period is limited to the remaining proportion of the contributions.

### **4—Application of Fund**

The Fund may be applied by the Minister for repayment of contributions under this Schedule.

### **5—No default after refund or non-payment of prescribed proportion**

For the purposes of regulation 7(2), a person is not to be taken to be in default only by virtue of the fact that—

- (a) the person has failed to pay an amount not exceeding the prescribed proportion of contributions liable to be paid under regulation 5 in respect of citrus fruit sold during the prescribed period; or

- (b) the person has been refunded the prescribed proportion of contributions under this Schedule.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2005	223	<i>Gazette 20.10.2005 p3775</i>	20.10.2005: r 2
<b>2009</b>	<b>241</b>	<b><i>Gazette 24.9.2009 p4725</i></b>	<b>1.10.2009: r 2</b>

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.10.2009</i>
r 5		
r 5(1)	varied by 241/2009 r 4	1.10.2009
Sch 1	inserted by 241/2009 r 5	1.10.2009