

South Australia

Primary Industry Funding Schemes (Clare Valley Wine Industry Fund) Regulations 2008

under the *Primary Industry Funding Schemes Act 1998*

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Legislative history

1—Short title

These regulations may be cited as the *Primary Industry Funding Schemes (Clare Valley Wine Industry Fund) Regulations 2008*.

3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

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

Clare Valley means the geographical area in relation to which the geographical indication "Clare Valley" is in force under the *Australian Wine and Brandy Corporation Act 1980* of the Commonwealth at the commencement of these regulations (see Schedule 1);

Clare Valley grapes means any variety of grapes grown in the Clare Valley and used or intended to be used for wine;

Clare Valley winemaker means a person who carries on a business of making wine and who processes Clare Valley grapes for that purpose;

default in relation to contributions to the Fund—see subregulation (2);

delivered—see subregulation (3);

Fund—see regulation 4;

prescribed period means each of the following periods:

- (a) the day on which these regulations come into operation to 31 May 2008;
- (b) 1 June 2008 to 31 May 2009;
- (c) 1 June 2009 to 31 May 2010;
- (d) 1 June 2010 to 31 May 2011;
- (e) 1 June 2011 to 31 May 2012;
- (f) 15 November 2012 to 31 May 2013;
- (g) the period of 12 months commencing on 1 June 2013 or on 1 June in any subsequent year up to and including the period of 12 months commencing on 1 June 2022;

prescribed rate—see Schedule 2;

relevant day means the day on which the *Primary Industry Funding Schemes (Clare Valley Wine Industry Fund) Variation Regulations 2017* come into operation.

- (2) A person is in **default** in relation to contributions to the Fund if, within the immediately preceding 2 prescribed periods—
 - (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.
- (3) For the purposes of these regulations—
 - (a) grapes will be taken to be **delivered** to a Clare Valley winemaker by a grower of Clare Valley grapes when the winemaker takes possession of the grapes; and
 - (b) if a Clare Valley winemaker processes Clare Valley grapes grown by the winemaker, grapes will be taken to be **delivered** to the winemaker when the winemaker places the grapes in a container for the purposes of commencing processing of the grapes (including placing the grapes in a container for fermentation or in preparation for crushing or pressing).

4—Clare Valley Wine Industry Fund

- (1) The Clare Valley Wine Industry 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) The following contributions are payable to the Minister for payment into the Fund for Clare Valley grapes delivered to a Clare Valley winemaker during the prescribed period commencing on 1 June 2017:
- (a) for grapes delivered before the relevant day—contributions are payable by the winemaker and grower of the grapes (other than the winemaker) in accordance with regulation 5(1) and Schedule 2, as in force immediately before the relevant day;
 - (b) for grapes delivered on or after the relevant day—contributions are payable as follows:
 - (i) in the case of a Clare Valley winemaker who has a vineyard, winemaking facility or cellar door in the Clare Valley—the winemaker must contribute—
 - (A) the prescribed minimum contribution; or
 - (B) an amount being the sum of—
 - the prescribed rate for each tonne of grapes grown by the winemaker delivered on or after the relevant day; and
 - the prescribed rate for each tonne of grapes grown by a person other than the winemaker delivered on or after the relevant day,whichever is the greater, provided that if contributions are payable by the winemaker under paragraph (a), those contributions may be taken into account in determining if the prescribed minimum contribution has or has not been exceeded for the purposes of this subparagraph;
 - (ii) in the case of any other Clare Valley winemaker—the winemaker must contribute the prescribed rate for each tonne of grapes grown by a person other than the winemaker delivered on or after the relevant day;
 - (iii) if the grapes are grown by a person other than the winemaker—the grower of the grapes must contribute the prescribed rate for each tonne of grapes delivered on or after the relevant day.
- (1a) The following contributions are payable to the Minister for payment into the Fund for Clare Valley grapes delivered to a Clare Valley winemaker during the prescribed period commencing on 1 June 2018, and each subsequent prescribed period thereafter:
- (a) in the case of a Clare Valley winemaker who has a vineyard, winemaking facility or cellar door in the Clare Valley—the winemaker must contribute—
 - (i) the prescribed minimum contribution; or
 - (ii) an amount being the sum of—
 - (A) the prescribed rate for each tonne of grapes grown by the winemaker delivered during the prescribed period; and

- (B) the prescribed rate for each tonne of grapes grown by a person other than the winemaker delivered during the prescribed period,
 - whichever is the greater;
 - (b) in the case of any other Clare Valley winemaker—the winemaker must contribute the prescribed rate for each tonne of grapes grown by a person other than the winemaker delivered during the prescribed period;
 - (c) if the grapes are grown by a person other than the winemaker—the grower of the grapes must contribute the prescribed rate for each tonne of grapes delivered during the prescribed period.
- (1b) However, despite subregulations (1) and (1a)—
- (a) for the prescribed period commencing on 1 June 2017—
 - (i) no more than \$15 000 is payable by each grower in respect of grapes delivered to winemakers during that period (whether delivered before, or on or after, the relevant day); and
 - (ii) no more than \$15 000 is payable by each winemaker on the winemaker's own behalf in respect of grapes delivered to the winemaker during that period (whether delivered before, or on or after, the relevant day); and
 - (b) for the prescribed period commencing on 1 June 2018—
 - (i) no more than \$15 000 is payable by each grower in respect of grapes delivered to winemakers during that period; and
 - (ii) no more than \$15 000 is payable by each winemaker on the winemaker's own behalf in respect of grapes delivered to the winemaker during that period; and
 - (c) for the prescribed period commencing on 1 June 2019—
 - (i) no more than \$17 500 is payable by each grower in respect of grapes delivered to winemakers during that period; and
 - (ii) no more than \$17 500 is payable by each winemaker on the winemaker's own behalf in respect of grapes delivered to the winemaker during that period; and
 - (d) for the prescribed period commencing on 1 June 2020—
 - (i) no more than \$17 500 is payable by each grower in respect of grapes delivered to winemakers during that period; and
 - (ii) no more than \$17 500 is payable by each winemaker on the winemaker's own behalf in respect of grapes delivered to the winemaker during that period; and
 - (e) for the prescribed period commencing on 1 June 2021—
 - (i) no more than \$20 000 is payable by each grower in respect of grapes delivered to winemakers during that period; and

- (ii) no more than \$20 000 is payable by each winemaker on the winemaker's own behalf in respect of grapes delivered to the winemaker during that period; and
 - (f) for the prescribed period commencing on 1 June 2022—
 - (i) no more than \$20 000 is payable by each grower in respect of grapes delivered to winemakers during that period; and
 - (ii) no more than \$20 000 is payable by each winemaker on the winemaker's own behalf in respect of grapes delivered to the winemaker during that period.
- (2) The contributions are payable on or before the last day of the month that immediately follows the prescribed period.
- (3) Contributions payable by a grower of Clare Valley grapes must be paid on behalf of the grower by the Clare Valley winemaker who purchases the grapes out of the amount payable by the winemaker to the grower for the grapes.
- (4) A Clare Valley winemaker must—
 - (a) keep proper records relating to the tonnage of Clare Valley grapes delivered to the winemaker, the growers of those grapes and the contributions required to be made (on the winemaker's own behalf and on behalf of growers) in respect of those grapes; and
 - (b) make those records available for inspection at any reasonable time by a person authorised by the Minister for the purpose.
- (5) A Clare Valley winemaker must, on or before the last day of the month that immediately follows a prescribed period—
 - (a) furnish the Minister with a financial statement relating to the contributions (on the winemaker's own behalf and on behalf of growers) for Clare Valley grapes delivered during that prescribed period that—
 - (i) is in the form, and contains the information, required by the Minister; and
 - (ii) is, if the person has the necessary equipment, in an electronic form acceptable to the Minister; and
 - (b) forward to the Minister, with the financial statement required by paragraph (a), the required contributions (on the winemaker's own behalf and on behalf of growers) for Clare Valley grapes delivered during the prescribed period to which the financial statement relates.
- (6) In this regulation—

prescribed minimum contribution means—

 - (a) if the winemaker has a cellar door located in the Clare Valley—\$1 000; or
 - (b) if the winemaker does not have a cellar door located in the Clare Valley—\$500.

6—Refunds of contributions

- (1) Refunds of contributions paid in respect of Clare Valley grapes delivered during a prescribed period may be claimed by notice in writing to the Minister within the 12 months following that prescribed period as follows:
 - (a) a grower of Clare Valley grapes may claim a refund in respect of contributions paid by the grower or by a Clare Valley winemaker on behalf of the grower;
 - (b) a Clare Valley winemaker may claim a refund in respect of contributions paid on the winemaker's own behalf.
- (2) A person claiming a refund under subregulation (1) must supply the Minister with evidence acceptable to the Minister of the contributions made by or on behalf of the claimant in respect of which the claim for refund is made.
- (3) 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 or on behalf of the person, together with interest (at the official cash rate) on that amount for the period commencing on the date of payment of the contributions to the Minister and ending on the date of lodgment of the claim for the refund.
- (4) In subregulation (3)—

official cash rate means the cash rate fixed by the Reserve Bank of Australia and prevailing on the date of lodgment of the claim for the refund.

7—Application of Fund

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

- (a) payments to a body that, in the opinion of the Minister, represents Clare Valley winemakers or growers of Clare Valley grapes (or both) for 1 or more of the following purposes:
 - (i) the reasonable operating and management expenses of the body;
 - (ii) promoting the Clare Valley wine industry;
 - (iii) undertaking or facilitating research and development, or the collection and dissemination to Clare Valley winemakers and growers of Clare Valley grapes of information, relevant to the Clare Valley wine industry and, in particular, to the improvement of practices in the industry;
 - (iv) the participation of the body in regional, State and national wine industry events;
 - (v) programs designed to encourage communication and cooperation between Clare Valley winemakers and growers of Clare Valley grapes;
 - (vi) other purposes of the body;
- (b) payments for other purposes for the benefit of the Clare Valley wine industry;
- (c) payment of the expenses of administering the Fund;
- (d) repayment of contributions to the Fund under regulation 6.

7A—Exchange of information

The Minister may provide a body to which payments are made out of the Fund under regulation 7(a) with information identifying growers of Clare Valley grapes and Clare Valley winemakers who have paid or been refunded contributions under these regulations.

8—Exclusion from benefits of person in default in relation to contributions

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.

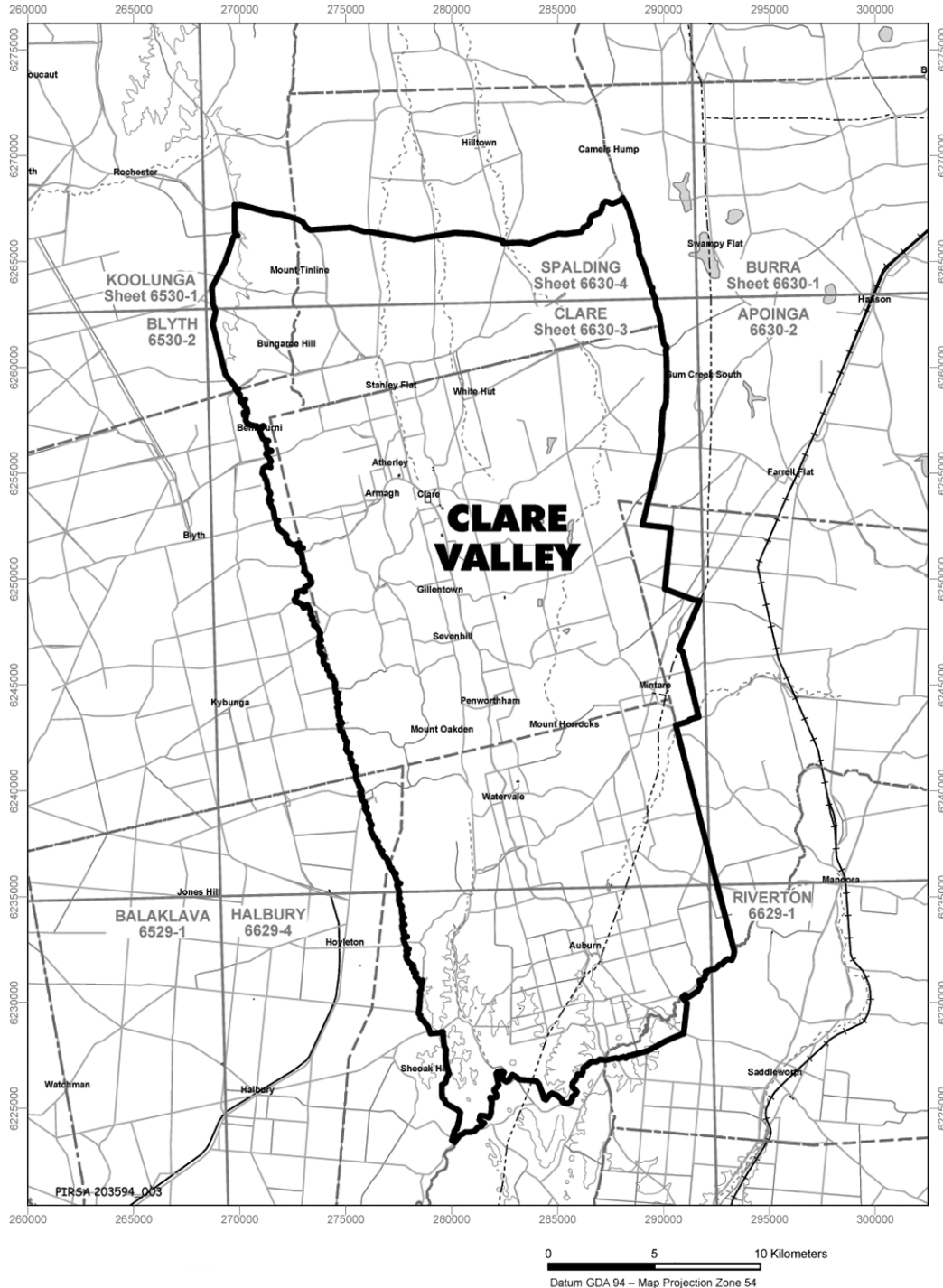
9—False or misleading statements

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—Map showing Clare Valley

The following map is provided for information purposes only.



The Geographical Indication "Clare Valley"

Schedule 2—Contributions

1—Prescribed rate

The prescribed rate is as follows:

- (a) for the prescribed period 1 June 2017 to 31 May 2018 (for grapes delivered on or after the relevant day)—\$8.00;
- (b) for the prescribed period 1 June 2018 to 31 May 2019—\$8.00;
- (c) for the prescribed period 1 June 2019 to 31 May 2020—\$9.00;
- (d) for the prescribed period 1 June 2020 to 31 May 2021—\$9.00;
- (e) for the prescribed period 1 June 2021 to 31 May 2022—\$9.00;
- (f) for the prescribed period 1 June 2022 to 31 May 2023—\$9.00.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- 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.

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2008	17	<i>Gazette 21.2.2008 p629</i>	21.2.2008: r 2
2012	226	<i>Gazette 15.11.2012 p5010</i>	Pt 4 (rr 13—16)—15.11.2012: r 2
2016	209	<i>Gazette 25.8.2016 p3500</i>	25.8.2016: r 2
2017	331	<i>Gazette 12.12.2017 p5008</i>	12.12.2017: r 2

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>15.11.2012</i>
r 3		
r 3(1)		
<i>prescribed grower rate</i>	<i>deleted by 331/2017 r 4(1)</i>	12.12.2017
prescribed period	varied by 226/2012 r 13	15.11.2012
	varied by 209/2016 r 4	25.8.2016
	varied by 331/2017 r 4(2)	12.12.2017
<i>prescribed winemaker rate</i>	<i>deleted by 331/2017 r 4(3)</i>	12.12.2017
prescribed rate	inserted by 331/2017 r 4(3)	12.12.2017
relevant day	inserted by 331/2017 r 4(3)	12.12.2017
r 5		
r 5(1)	substituted by 226/2012 r 14	15.11.2012
	substituted by 331/2017 r 5(1)	12.12.2017
r 5(1a) and (1b)	inserted by 331/2017 r 5(1)	12.12.2017
r 5(6)	inserted by 331/2017 r 5(2)	12.12.2017

r 6		
r 6(3)	substituted by 226/2012 r 15	15.11.2012
r 6(4)	inserted by 226/2012 r 15	15.11.2012
r 7A	inserted by 226/2012 r 16	15.11.2012
Sch 2	substituted by 331/2017 r 6	12.12.2017

Historical versions

15.11.2012

25.8.2016