

South Australia

# Primary Industry Funding Schemes (Grain Industry Fund) Regulations 2012

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 (Grain Industry Fund) Regulations 2012*.

### 2—Commencement

These regulations will come into operation on 1 March 2012.

### 3—Interpretation

In these regulations, unless the contrary intention appears—

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

*Fund*—see regulation 4;

*grain* means—

- (a) cereal and coarse grain (for example, wheat, barley, oats, rye and triticale); or
- (b) pulses (for example, lentils, chickpeas, field peas, faba beans and lupins); or
- (c) oilseed (for example, rapeseed, canola, linseed and sunflower seed),

but does not include pasture seed (for example, lucerne, medic and clover seed);

*grain grower* means a person who carries on the business of producing grain;

*quarter* means any period of 3 months commencing on 1 January, 1 April, 1 July or 1 October.

#### 4—Grain Industry Fund

- (1) The Grain 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 for grain sold by grain growers

- (1) Contributions are payable to the Minister for payment into the Fund as follows:
  - (a) the amount payable is—
    - (i) 5 cents; or
    - (ii) if some other amount (which may be 0) is specified by the Minister by notice in the Gazette—that other amount,  
for each tonne of grain produced and sold by a grain grower;
  - (b) contributions are payable on behalf of the grain grower by the person who purchases the grain from the grain grower (the *purchaser*);
  - (c) contributions are payable on a monthly basis, or, with the approval in writing by the Minister on application by the purchaser, on a quarterly or yearly basis;
  - (d) contributions payable for grain sold during a particular month (or other period as may be approved under paragraph (c)) fall due 28 days after that month (or other period).
- (2) A purchaser who pays contributions on behalf of a grain grower must—
  - (a) deduct the amount of the contributions from the amount payable by the purchaser to the grain grower for the grain; and
  - (b) keep proper records constituting evidence of the sale and deduction and make those records available for inspection at any reasonable time by a person authorised by the Minister for the purpose.
- (3) Each monthly (or other periodic) payment of contributions to the Minister must be accompanied by a statement setting out the name and address of each grain grower on whose behalf the contributions are paid and, for each grain grower, the tonnage of grain sold to the purchaser during the month (or other period) in respect of which the contributions are paid.
- (4) The Minister may—
  - (a) vary or revoke a notice in the Gazette made under subregulation (1)(a) by subsequent notice in the Gazette;
  - (b) vary or revoke an approval under subregulation (1)(c).

- (5) A reference in subregulation (1)(a) to grain produced by a grain grower is a reference to grain produced by the grain grower during any season (including grain produced before the commencement of these regulations and sold after that commencement).

## **6—Refunds of contributions**

- (1) A grain grower may, by notice in writing to the Minister, within the 12 months following a financial year in respect of which contributions have been paid on behalf of the grain grower, make a claim for a refund in respect of those contributions.
- (2) A grain grower claiming a refund under subregulation (1) must supply the Minister with—
- (a) evidence acceptable to the Minister of the contributions made on behalf of the grain grower in respect of which the claim for refund is made; and
  - (b) if required by the Minister, verification of that evidence in the form of a statutory declaration.
- (3) If the grain grower satisfies the Minister that the grain grower is entitled to a refund, the Minister must refund to the grain grower the amount of contributions paid on behalf of the grain grower in respect of grain sold during the relevant financial year.

## **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 grain growers 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 grain or agriculture industry bodies;
  - (iii) promoting the grain industry, including through industry field days, conferences and other events;
  - (iv) representing grain growers in regional, State or national grain or agriculture industry forums;
  - (v) the collection and dissemination to grain growers of information relevant to the grain industry;
  - (vi) programs designed to encourage communication and cooperation between grain growers and other persons associated with the grain industry;
  - (vii) other purposes of the body;
- (b) payments for other purposes for the benefit of grain growers;
- (c) payment of the expenses of administering the Fund;
- (d) repayment of contributions to the Fund under regulation 6.

## **8—Grain growers in default of contributions not entitled to benefits**

- (1) A grain grower 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 grain grower 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 on behalf of the grain grower have not been paid; or
  - (b) the grain grower has been refunded contributions from the Fund.

### **9—Exchange of information**

- (1) The Minister may require a body to which payments are made out of the Fund under regulation 7(a) to provide the Minister with—
- (a) a copy of the financial statements of the body; and
  - (b) a copy of the annual report of the body; and
  - (c) a copy of any business plan of the body; and
  - (d) any other information reasonably required for the purposes of these regulations.
- (2) The Minister may provide the body with information identifying grain growers on whose behalf contributions have been paid or who have been refunded contributions under these regulations.

### **10—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.

## 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

Year	No	Reference	Commencement
2012	8	<i>Gazette 23.2.2012 p848</i>	1.3.2012: r 2