

South Australia

# Primary Industry Funding Schemes (McLaren Vale Wine Industry Fund) Regulations 2003

under the *Primary Industry Funding Schemes Act 1998*

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Schedule—Map showing McLaren Vale

Legislative history

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### 1—Short title

These regulations may be cited as the *Primary Industry Funding Schemes (McLaren Vale Wine Industry Fund) Regulations 2003*.

### 3—Interpretation

- (1) In these regulations, unless the contrary intention appears—
  - Act* means the *Primary Industry Funding Schemes Act 1998*;
  - delivered*—see subregulation (3);
  - Fund*—see regulation 4;
  - McLaren Vale* means the area outlined in bold and shown on the map in the Schedule;
  - McLaren Vale grapes* means any variety of grapes grown in McLaren Vale and used or intended to be used for wine;
  - McLaren Vale grapes winemaker* means a person who carries on a business of making wine and who processes McLaren Vale grapes for that purpose.
- (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.

- (3) For the purposes of these regulations—
- (a) grapes will be taken to be *delivered* to a McLaren Vale grapes winemaker by a grower of McLaren Vale grapes when the winemaker takes possession of the grapes; and
  - (b) if a McLaren Vale grapes winemaker processes McLaren Vale grapes grown by the winemaker, grapes will be taken to be *delivered* to the winemaker when the grapes are placed 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—McLaren Vale Wine Industry Fund

- (1) The *McLaren Vale 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 within 30 days after the end of each financial year to the Minister for payment into the Fund for each tonne of McLaren Vale grapes delivered to a McLaren Vale grapes winemaker during that financial year:
  - (a) in the case of grapes grown by a person other than the winemaker—
    - (i) for the financial year commencing 1 July 2011—
      - (A) \$7.90 is payable by the grower of the grapes; and
      - (B) \$10.50 is payable by the winemaker;
    - (ii) for any earlier financial year—
      - (A) \$7.50 is payable by the grower of the grapes; and
      - (B) \$10.00 is payable by the winemaker;
  - (b) in the case of grapes grown by the winemaker—
    - (i) for the financial year commencing 1 July 2011—\$10.50 is payable by the winemaker;
    - (ii) for any earlier financial year—\$10.00 is payable by the winemaker.
- (1a) However—
  - (a) contributions are not payable in respect of grapes delivered during the financial year commencing 1 July 2012 or in any subsequent financial year; and
  - (b) no more than \$30 000 is payable by each grower in respect of grapes delivered to winemakers during a financial year; and

- (c) no more than \$30 000 is payable by each winemaker on the winemaker's own behalf in respect of grapes delivered to the winemaker during a financial year.
- (2) Contributions payable by a grower under subregulation (1)(a) must be paid on behalf of the grower by the McLaren Vale grapes winemaker who purchases the grapes out of the amount payable by the winemaker to the grower for the grapes.
- (3) A McLaren Vale grapes winemaker must—
  - (a) keep proper records relating to the growers and tonnage of McLaren Vale grapes delivered to the winemaker 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.
- (4) A McLaren Vale grapes winemaker must—
  - (a) within 30 days after the end of each financial year, furnish the Minister with a financial statement relating to the contributions (on the winemaker's own behalf and on behalf of growers) for McLaren Vale grapes delivered during that financial year 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 annual financial statement required by paragraph (a), the required contributions (on the winemaker's own behalf and on behalf of growers) for McLaren Vale grapes delivered during the financial year to which the financial statement relates.
- (5) Refunds of contributions paid in respect of McLaren Vale grapes delivered during a financial year may be claimed by notice in writing to the Minister within the 12 months following that financial year as follows:
  - (a) a grower of McLaren Vale grapes may claim a refund in respect of contributions paid by a McLaren Vale grapes winemaker on behalf of the grower; and
  - (b) a McLaren Vale grapes winemaker may claim a refund in respect of contributions paid on the winemaker's own behalf.
- (6) A person claiming a refund under subregulation (5) must supply the Minister with evidence acceptable to the Minister of the contributions made by the claimant in respect of which the claim for refund is made and, 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 grapes processed during the relevant financial year, together with interest calculated at the short term interest rate (as published by the Reserve Bank of Australia for the preceding financial year) on a monthly basis for the number of whole months in the period commencing on the date of payment of the amount and ending on the date of the refund.

## 6—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 both McLaren Vale grapes winemakers and growers of McLaren Vale grapes for one or more of the following purposes:
  - (i) the reasonable operating and management expenses of the body;
  - (ii) promoting the McLaren Vale wine industry;
  - (iii) undertaking or facilitating research and development, or the collection and dissemination to McLaren Vale grapes winemakers and growers of McLaren Vale grapes of information, relevant to the McLaren Vale wine industry and, in particular, to the improvement of practices in the industry;
  - (iv) programs designed to encourage communication and cooperation between McLaren Vale grapes winemakers and growers of McLaren Vale grapes;
  - (v) other purposes of the body;
- (b) payments for other purposes for the benefit of the McLaren Vale wine industry;
- (c) payment of the expenses of administering the Fund;
- (d) repayment of contributions to the Fund under regulation 5.

## 6A—Exchange of information

- (1) The Minister may require a body to which payments are made out of the Fund under regulation 6(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 a body to which payments are made out of the Fund under regulation 6(a) with information identifying growers of McLaren Vale grapes and McLaren Vale grape winemakers who have paid or been refunded contributions under these regulations.

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

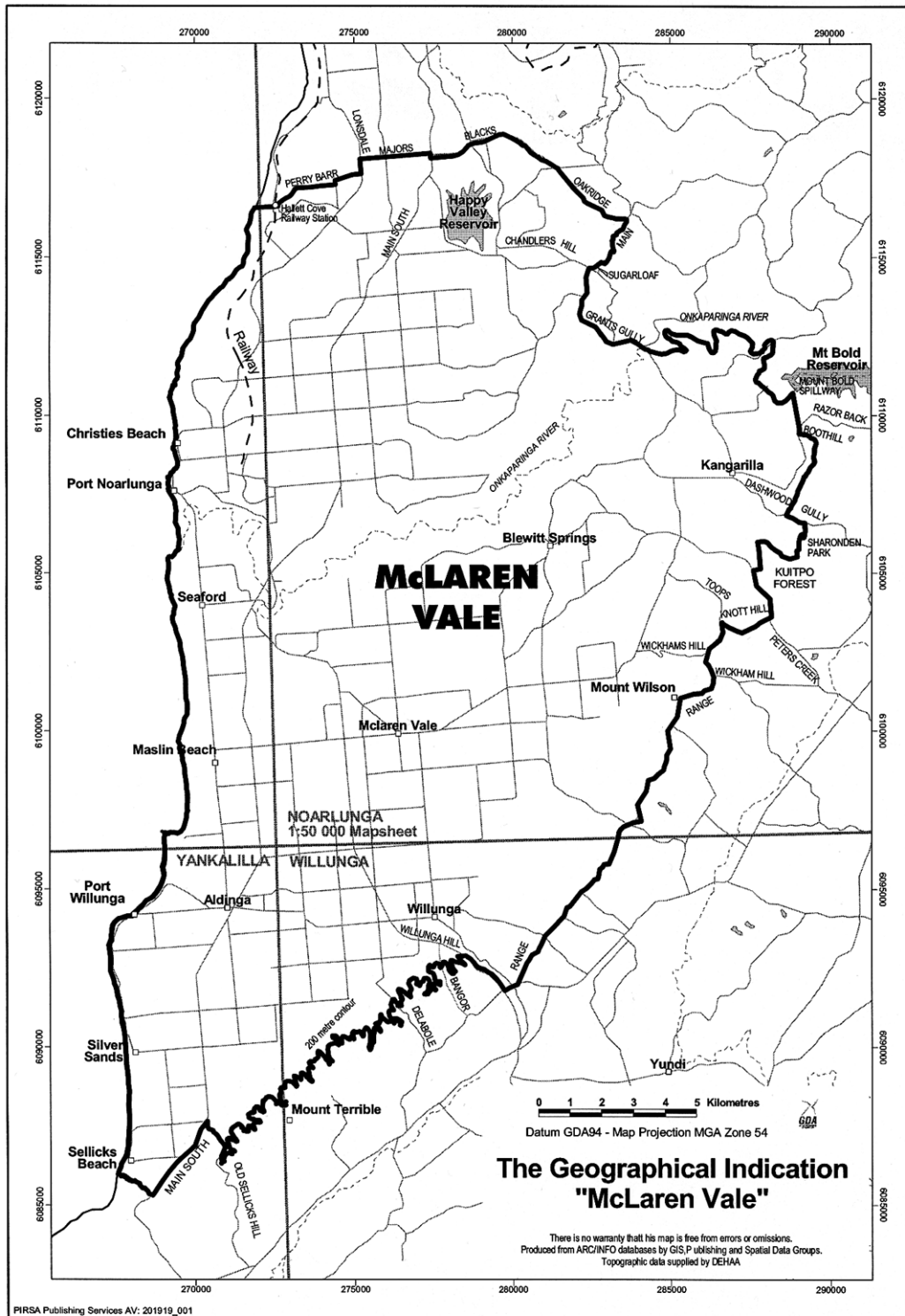
A person who is in default in relation to contributions to the Fund is not entitled to receive direct benefits or services funded by payments from the Fund under regulation 6(b).

## **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—Map showing McLaren Vale



## 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](http://www.legislation.sa.gov.au).

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2003	145	<i>Gazette 5.6.2003 p2421</i>	5.6.2003: r 2
2007	307	<i>Gazette 13.12.2007 p4849</i>	13.12.2007: r 2
<b>2009</b>	<b>306</b>	<b><i>Gazette 17.12.2009 p6375</i></b>	<b>17.12.2009: 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>13.12.2007</i>
<b>r 3</b>		
<b>r 3(1)</b>	<b>inserted by 306/2009 r 4(1)</b>	<b>17.12.2009</b>
<b>r 3(3)</b>	<b>inserted by 306/2009 r 4(2)</b>	<b>17.12.2009</b>
<i>r 5</i>		
<b>r 5(1)</b>	<b>substituted by 306/2009 r 5(1)</b>	<b>17.12.2009</b>
<i>r 5(1a)</i>	<i>inserted by 307/2007 r 8</i>	<i>13.12.2007</i>
	<b>substituted by 306/2009 r 5(1)</b>	<b>17.12.2009</b>
<b>r 5(3)</b>	<b>varied by 306/2009 r 5(2)</b>	<b>17.12.2009</b>
<b>r 5(4) and (5)</b>	<b>varied by 306/2009 r 5(3)</b>	<b>17.12.2009</b>
<b>r 5(6)</b>	<b>varied by 306/2009 r 5(4)</b>	<b>17.12.2009</b>
<b>r 5(7)</b>	<b>varied by 306/2009 r 5(5)</b>	<b>17.12.2009</b>
<b>r 6A</b>	<b>inserted by 306/2009 r 6</b>	<b>17.12.2009</b>
<b>r 7</b>	<b>varied by 306/2009 r 7</b>	<b>17.12.2009</b>
<i>r 9</i>	<i>deleted by 307/2007 r 9</i>	<i>13.12.2007</i>

## **Historical versions**

13.12.2007