

South Australia

# Primary Industry Funding Schemes (SA Grape Growers Industry Fund) Regulations 2007

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 (SA Grape Growers Industry Fund) Regulations 2007*.

### 3—Interpretation

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

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

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

**delivery**—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) the period commencing on 15 November 2012 and ending on 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;

**SA grape grower** means a person who grows SA grapes and who is not a SA winemaker;

**SA grapes** means any variety of grapes grown in this State and used or intended to be used for wine;

**SA winemaker** means a person who carries on a business of making wine and who processes SA grapes for that purpose.

- (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, grapes will be taken to be **delivered** to a winemaker when the winemaker takes possession of the grapes.

#### **4—South Australian Grape Growers Industry Fund**

- (1) The South Australian Grape Growers 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) Contributions are payable by a SA grape grower to the Minister for payment into the Fund as follows:
  - (a) a contribution is payable on or before the last day of the month that immediately follows a prescribed period;
  - (b) the contribution is \$1 for each tonne of the grower's SA grapes delivered to a SA winemaker during the prescribed period.
- (2) Contributions payable by a SA grape grower must be paid on behalf of the grower by the SA winemaker who purchases the grapes out of the amount payable by the winemaker to the grower for the grapes.
- (3) A SA winemaker must—
  - (a) keep proper records relating to the tonnage of SA grapes delivered to the winemaker, the growers of those grapes and the contributions required to be made 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 SA 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 payable for SA 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 behalf of SA grape growers for SA grapes delivered during the prescribed period to which the financial statement relates.

## 6—Refunds of contributions

- (1) Refunds of contributions paid on behalf of a grower in respect of SA grapes delivered during a prescribed period may be claimed by the grower by notice in writing to the Minister within the 12 months following that prescribed period.
- (2) A person claiming a refund under this regulation 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 SA grape growers for 1 or more of the following purposes:
  - (i) the reasonable operating and management expenses of the body;
  - (ii) promoting SA grape growers;
  - (iii) undertaking or facilitating research and development, or the collection and dissemination to SA winemakers and SA grape growers of information, relevant to SA grape growers and, in particular, to the improvement of industry practices;
  - (iv) fees for affiliation of the body with regional, State or national bodies representing or promoting the interests of grape growers;
  - (v) programs designed to encourage communication and cooperation between SA winemakers and SA grape growers;

- (vi) other purposes of the body;
- (b) payments for other purposes for the benefit of SA grape growers;
- (c) payment of the expenses of administering the Fund;
- (d) payments to the Consolidated Account or a special deposit account established under section 8 of the *Public Finance and Audit Act 1987* of amounts in accordance with an agreement entered into between the Minister and a body to which payments may be made under paragraph (a), being repayments of an amount advanced to that body under the agreement;
- (e) 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 SA grapes and SA 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.

## 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
2007	276	<i>Gazette 29.11.2007 p4432</i>	29.11.2007: r 2
2012	226	<i>Gazette 15.11.2012 p5010</i>	Pt 8 (rr 25—28)—15.11.2012: r 2
2016	211	<i>Gazette 25.8.2016 p3504</i>	25.8.2016: r 2
<b>2017</b>	<b>334</b>	<b><i>Gazette 12.12.2017 p5018</i></b>	<b>12.4.2018: 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>15.11.2012</i>
r 3		
r 3(1)		
prescribed period	varied by 226/2012 r 25(1)	15.11.2012
	varied by 211/2016 r 4	25.8.2016
	<b>varied by 334/2017 r 4</b>	<b>12.4.2018</b>
r 3(2)	varied by 226/2012 r 25(2)	15.11.2012
r 5		
r 5(1)	varied by 226/2012 r 26	15.11.2012
r 6		
r 6(3)	substituted by 226/2012 r 27	15.11.2012
r 6(4)	inserted by 226/2012 r 27	15.11.2012
r 7A	inserted by 226/2012 r 28	15.11.2012

### Historical versions

15.11.2012

25.8.2016