

South Australia

**PRIMARY INDUSTRY FUNDING SCHEMES (SHEEP INDUSTRY FUND)
REGULATIONS 1999**

REGULATIONS UNDER THE PRIMARY INDUSTRY FUNDING SCHEMES ACT 1998

Primary Industry Funding Schemes (Sheep Industry Fund) Regulations 1999

being

No. 209 of 1999: *Gaz.* 28 October 1999, p. 2117¹

as varied by

No. 294 of 2000: *Gaz.* 21 December 2000, p. 3781²

¹ Came into operation 28 October 1999: reg. 2.

² Came into operation 21 December 2000: reg. 2.

NOTE:

- *Asterisks indicate repeal or deletion of text.*
- *For the legislative history of the regulations see Appendix.*

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**PART 1
PRELIMINARY**

Citation

1. These regulations may be cited as the *Primary Industry Funding Schemes (Sheep Industry Fund) Regulations 1999*.

Commencement

2. These regulations come into operation on the day on which they are made.

Interpretation

3. (1) In these regulations—

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

"**collection agent**" means—

- (a) for a contract of sale where the sale is conducted by a stock agent—that stock agent; or
- (b) for a contract of sale where the sale is to a person who operates an abattoir (and the sale is not conducted by a stock agent)—that person; or
- (c) for a contract of sale where the sale is to a person who carries on a business involving the purchase of sheep for slaughter and the sale of the carcasses (and the sale is not conducted by a stock agent)—that person;

"**consultative committee**"—*see* regulation 5;

"**Dog Fence Board**" means the Dog Fence Board established under the *Dog Fence Act 1946*;

"**Fund**"—*see* regulation 4;

"**Johne's disease order**" means an order issued under the *Livestock Act 1997* for the control of Johne's disease that prohibits or restricts the pasturing or keeping of sheep on land for a specified period and regulates the removal and destruction of sheep on the land;

"**Johne's disease property eradication plan**" means a plan signed by the owner of sheep and attached to a Johne's disease order;

"**owner**" of sheep does not include a mortgagee of the sheep not in possession;

"**prescribed amount**" means—

- (a) for an adult ewe (*ie* a ewe that has had one or both of its two permanent incisor teeth erupt through the gum) \$30;
- (b) for an adult ram (*ie* a ram that has had one or both of its two permanent incisor teeth erupt through the gum) other than an adult ram that has undergone a vasectomy \$150;

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(c) for a sheep other than of a kind referred to in paragraph (a) or (b) \$20;

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

"vendor" of sheep means the owner of the sheep immediately prior to sale of the sheep.

(2) A vendor of sheep is in default in relation to contributions to the Fund if, within the immediately preceding two financial years—

- (a) all or some of the contributions payable to the Fund in respect of contracts of sale of the vendor's sheep have not been paid; or
- (b) the vendor has been refunded contributions from the Fund.

PART 2
SOUTH AUSTRALIAN SHEEP INDUSTRY FUND

South Australian Sheep Industry Fund

4. (1) The *South Australian Sheep 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 contributions received by the Minister for payment into the Fund.

Consultative committee

5. The *Sheep Advisory Group*, established by the Minister under Part 2 of the *Livestock Act 1997* to represent the sheep industry, will be the consultative committee to advise the Minister in relation to the application of the Fund.

Contributions

6. (1) A contribution of \$0.20 per sheep must be paid to the Minister for payment into the Fund in respect of each contract of sale under which 5 or more sheep are sold for an average price of \$5.00 or more per sheep.

(2) For the purposes of subregulation (1), if, in a financial year, a person enters into more than one contract with the same purchaser for the sale of less than 5 sheep, the contracts will be taken to be a single contract.

(3) Subject to subregulation (4), the contribution must be paid by the vendor of the sheep.

(4) If there is a collection agent for the contract of sale of sheep, the collection agent must pay the contribution on behalf of the vendor of the sheep.

(5) The relevant collection agent or, in respect of contract of sale for which there is no collection agent, the vendor of sheep must—

(a) keep proper records relating to contracts of sale of sheep entered into by the person (either as principal or agent) and the contributions required to be made in respect of those contracts; and

(b) make those records available for inspection at any reasonable time by a person authorised by the Minister for the purpose.

(6) The relevant collection agent or, in the case of a contract of sale for which there is no collection agent, the vendor of sheep must—

(a) within 14 days after the end of each quarter, furnish the Minister with a financial statement relating to the contributions arising from contracts of sale of sheep entered into by the person (either as principal or agent) during that quarter that—

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- (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) receive and forward to the Minister, with the quarterly financial statement required by paragraph (a), the required contributions for contracts of sale entered into during the quarter to which the financial statement relates.

(7) A person who was the vendor of sheep at the time contributions became payable under this regulation in respect of a contract of sale may claim a refund from the Fund for the contributions made in the financial year immediately preceding the financial year in which the person makes the claim in respect of contracts of sale of the person's sheep.

(8) If a person, by written notice to the Minister, requests the Minister to refund contributions, the Minister must, on being satisfied that the person is entitled to the refund, pay to the person an amount determined in accordance with the following formula:

$$R = C_t + \left(C_1 + C_2 \times \frac{9}{12} + C_3 \times \frac{6}{12} + C_4 \times \frac{3}{12} \right) \times I$$

where—

R is the total amount of the refund;

C_t is the total amount of contributions paid during the financial year immediately preceding the financial year in which the person claims the refund in respect of contracts of sale of the person's sheep;

C_1 is the contribution paid during the first quarter of that financial year in respect of contracts of sale of the person's sheep;

C_2 is the contribution paid during the second quarter of that financial year in respect of contracts of sale of the person's sheep;

C_3 is the contribution paid during the third quarter of that financial year in respect of contracts of sale of the person's sheep;

C_4 is the contribution paid during the fourth quarter of that financial year in respect of contracts of sale of the person's sheep;

I is the annual short term interest for that financial year (as published by the Reserve Bank of Australia) expressed as a percentage.

Application of Fund

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

- (a) payment of contributions to the Dog Fence Board towards the maintenance or improvement of the dog-proof fence to assist in the prevention of wild dogs entering into pastoral areas where sheep are kept;

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- (ab) payments for financial assistance or *ex gratia* payments authorised under Part 3;
- (b) the undertaking of programs relating to sheep, sheep products or any other aspect of the sheep industry recommended to the Minister by the Sheep Advisory Group;
- (c) repayment of contributions to the Fund under regulation 6;
- (d) payment of the reasonable operation and management expenses of the Sheep Advisory Group (whether sitting as the Sheep Advisory Group under the *Livestock Act 1997* or as the consultative committee under these regulations);
- (e) payment of the expenses of administering the Fund.

Certain persons not entitled to directly benefit from Fund

8. A person who has, at the person's request, been refunded contributions under regulation 6 will not be entitled to receive a direct benefit from the Fund for the period of 2 financial years following the financial year in respect of which contributions were refunded.

PART 3
PAYMENTS FOR ERADICATION OF JOHNE'S DISEASE

Financial assistance for Johne's disease property eradication plans

9. (1) The Minister may make a payment of financial assistance out of the Fund to an owner of sheep who has been issued a Johne's disease order and has signed a Johne's disease property eradication plan attached to the order (whether before or after the commencement of this regulation).

(2) A payment of financial assistance out of the Fund under this regulation must not exceed the prescribed amount.

Effect of breach of order or default in contributions

10. (1) A person is not eligible to receive financial assistance under regulation 9, and must repay to the Minister the amount of any such financial assistance received by the person, if—

- (a) sheep enter or remain on land in breach of the Johne's disease order or Johne's disease property eradication plan; or
- (b) the person is in default in relation to contributions to the Fund.

(2) The Minister may recover an amount payable under subregulation (1) as a debt.

(3) The Minister may exempt a person from the application of subregulation (1) if satisfied that the circumstances of the particular case justify the exemption.

Ex gratia payments

11. (1) The Minister may make an *ex gratia* payment of an amount out of the Fund to an owner of sheep destroyed pursuant to an order issued, or action taken or caused to be taken by an inspector, under the *Livestock Act 1997* for the purpose of an investigation relating to Johne's disease.

(2) The amount of an *ex gratia* payment under this regulation must not exceed the prescribed amount.

(3) An *ex gratia* payment will not be paid to a person who is in default in relation to contributions to the Fund unless the Minister is satisfied that the circumstances of the particular case justify the payment.

Guidelines

12. The Minister may, after consultation with the consultative committee, publish guidelines relating to payments under this Part, including guidelines about procedures for making claims for payments or resolving disputes about payments.

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**PART 4
MISCELLANEOUS**

False or misleading statements

13. 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 information provided, or record kept, for the purposes of these regulations.

Maximum penalty: \$5 000.

APPENDIX

LEGISLATIVE HISTORY

Part 1 heading:	inserted by 294, 2000, reg. 3
Regulation 3:	redesignated as reg. 3(1) by 294, 2000, reg. 4(d) definition of "collection agent" inserted by 294, 2000, reg. 4(a) definitions of "Johne's disease order", "Johne's disease property eradication plan", "owner" and "prescribed amount" inserted by 294, 2000, reg. 4(b) definition of "vendor" inserted by 294, 2000, reg. 4(c)
Regulation 3(2):	inserted by 294, 2000, reg. 4(d)
Part 2 heading:	inserted by 294, 2000, reg. 5
Regulation 6:	substituted by 294, 2000, reg. 6
Regulation 7:	varied by 294, 2000, reg. 7
	 Part 3 comprising regs. 9 - 12 and heading inserted by 294, 2000, reg. 8
	 Part 4 comprising reg. 13 and heading inserted by 294, 2000, reg. 8