

South Australia

# Wine Grapes Industry Act 1991

An Act relating to the marketing of wine grapes.

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## The Parliament of South Australia enacts as follows:

### 1—Short title

This Act may be cited as the *Wine Grapes Industry Act 1991*.

### 3—Interpretation

(1) In this Act, unless the contrary intention appears—

**payment** includes any form of monetary consideration or non-monetary consideration to which a monetary value can be assigned;

**processor** includes a person who purchases wine grapes for resale to a processor;

**producer** means—

- (a) a person by whom, or on whose behalf, wine grapes are grown for sale;
- (b) where wine grapes are grown for sale by a partnership or under a share farming agreement—the partners or the parties to that agreement,

but does not include an employee or other person who acquires no interest in the grapes;

*production area* means—

- (a) the areas of the district councils of Barmera, Berri, Loxton, Mannum, Mobilong, Morgan, Paringa and Waikerie; and
- (b) the hundred of Katarapko; and
- (c) the hundreds of Bowhill, Fisher, Forster, Nildottie and Ridley in the area of the district council of Ridley; and
- (d) the hundred of Skurray in the area of the district council of Truro; and
- (e) the municipalities of Murray Bridge and Renmark; and
- (f) the counties of Young and Hamley; and
- (g) any other part of the State that the Governor may, by regulation, declare to be part of the production area;

*sale* includes supply;

*wine grapes* means any variety of grapes used or intended to be used for processing into wine, must, juice or grape spirit.

- (2) For the purposes of this Act, if wine grapes are supplied to a processor for processing and the product derived from the processing is sold to that processor or some other processor, the contract of sale will be taken to be a contract for the sale of the grapes by the supplier to the processor who purchases the product.

**Note—**

For definition of divisional penalties (and divisional expiation fees) see Appendix.

#### **4—Application**

This Act does not apply in relation to the sale of wine grapes by a member of a registered co-operative to the co-operative.

#### **5—Indicative price**

- (1) The Minister may, by order, recommend a price (expressed as an amount per tonne) for wine grapes grown in the production area and sold to a processor.
- (2) The price may vary according to the variety of wine grapes.

#### **6—Terms and conditions of payment**

- (1) The Minister may, by order, fix terms and conditions relating to—
  - (a) the time within which payment for wine grapes must be made by processors; and
  - (b) payments (which are to be regarded as payments in the nature of liquidated damages) to be made by processors in default of payment within that time.
- (2) In determining terms and conditions, the Minister must not differentiate between processors.
- (3) Any terms and conditions fixed under this section are implied in every contract for the sale of wine grapes to a processor and any provision of a contract or other instrument is void to the extent of any inconsistency with those terms and conditions.

## 7—Consultation

- (1) The Minister must, before recommending prices or fixing terms and conditions under this Act, consult representatives of both producers and processors and may consult such other persons as he or she thinks fit.
- (2) A person may, at the request of the Minister or otherwise—
  - (a) make a submission to the Minister on the exercise of powers under this Act; and
  - (b) engage in discussions or negotiations incidental to making or considering such a submission.

## 8—Orders

- (1) The Minister may vary or revoke an order under this Act by subsequent order.
- (2) The Minister must publish in the Gazette each order made under this Act.
- (3) An order under this Act comes into operation on the date of its publication in the Gazette or on such later date as is specified in the order but may, if it so provides, apply to contracts made before the date on which it comes into operation.

## 9—Conditions for acceptance of delivery

- (1) A processor must not accept delivery of wine grapes for processing unless—
  - (a) all amounts that have previously fallen due for payment by the processor for wine grapes received by the processor, or any person acting on the processor's behalf, in a previous season have been paid in full; or
  - (b) the processor has been granted an exemption under this section.

Penalty: Division 5 fine.

- (2) If a processor enters into a contract for the sale of wine grapes and is prohibited by this section from accepting delivery of the grapes, the processor will be regarded as being in breach of a fundamental condition of the contract.
- (3) The Minister may, by written notice, exempt a processor from this section subject to such conditions (if any) as the Minister specifies in the notice.
- (4) The Minister may, by written notice, revoke an exemption or vary or revoke any conditions to which an exemption is subject.
- (5) A processor who contravenes or fails to comply with a condition of an exemption is guilty of an offence.

Penalty: Division 5 fine.

## 10—Offences

- (1) Offences against this Act are summary offences.
- (2) Proceedings for an offence against this Act must be commenced within 12 months after the date on which the offence is alleged to have been committed.
- (3) Proceedings for an offence against this Act must not be commenced except with the authorisation of the Minister.

- (4) An apparently genuine document purporting to be under the hand of the Minister and to authorise the commencement of proceedings under this Act must be accepted in legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.

## 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).

### Legislation amended by principal Act

The *Wine Grapes Industry Act 1991* amended the following:

*Prices Act 1948*

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1991	71	<i>Wine Grapes Industry Act 1991</i>	12.12.1991	12.12.1991 ( <i>Gazette 12.12.1991 p1747</i> )
1992	78	<i>Wine Grapes Industry (Indicative Prices) Amendment Act 1992</i>	3.12.1992	3.12.1992

### Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 3(1)		
production area	amended by 78/1992 s 2	3.12.1992
Sch	<i>omitted under Legislation Revision and Publication Act 2002</i>	

## Appendix—Divisional penalties and expiation fees

At the date of publication of this version divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—

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<b>Division</b>	<b>Maximum imprisonment</b>	<b>Maximum fine</b>	<b>Expiation fee</b>
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

*Note: This appendix is provided for convenience of reference only.*