

South Australia

# Primary Industry Funding Schemes (Adelaide Hills Wine Industry Fund) Regulations 2017

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 (Adelaide Hills Wine Industry Fund) Regulations 2017*.

### 2—Commencement

These regulations will come into operation on 1 June 2018.

### 3—Interpretation

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

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

*Adelaide Hills* means the area outlined in bold and shown on the map in Schedule 1;

*Adelaide Hills grapes* means any variety of grapes grown in the Adelaide Hills and used or intended to be used for wine;

*Adelaide Hills grapes winemaker* means a person who carries on a business of making wine and who processes Adelaide Hills grapes for that purpose;

*delivered*—see subregulation (3);

*Fund*—see regulation 4;

*prescribed period* means any of the following periods:

- (a) a prescribed period as defined under the revoked regulations;
- (b) the period of 12 months commencing on 1 June 2018 or on 1 June in any subsequent year up to and including the period of 12 months commencing on 1 June 2023;

*revoked regulations* means the *Primary Industry Funding Schemes (Adelaide Hills Wine Industry Fund) Regulations 2003*.

- (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—
  - (a) grapes will be taken to be **delivered** to an Adelaide Hills grapes winemaker by a grower of Adelaide Hills grapes when the winemaker takes possession of the grapes; and
  - (b) if an Adelaide Hills grapes winemaker processes Adelaide Hills grapes grown by the winemaker, grapes will be taken to be **delivered** to the winemaker when the winemaker places the grapes 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—Adelaide Hills Wine Industry Fund**

- (1) The Adelaide Hills Wine Industry Fund (the **Fund**) established under the revoked regulations continues in existence.
- (2) The Fund is administered by the Minister.
- (3) The Fund consists of—
  - (a) contributions paid or collected in accordance with these regulations; and
  - (b) contributions paid or collected in accordance with the revoked regulations; and
  - (c) income of the Fund from investment; and
  - (d) any other sums received by the Minister for payment into the Fund.

#### **5—Contributions to Fund**

- (1) The following contributions are payable to the Minister for payment into the Fund for Adelaide Hills grapes delivered to an Adelaide Hills grapes winemaker during a prescribed period other than a prescribed period as defined under the revoked regulations:
  - (a) in the case of grapes grown by a person other than an Adelaide Hills grapes winemaker—
    - (i) the grower of the grapes must contribute \$6.50 per tonne for each tonne of grapes delivered during the prescribed period; and

- (ii) the winemaker must contribute \$6.50 per tonne for each tonne of grapes delivered during the prescribed period;
  - (b) in the case of grapes grown by an Adelaide Hills grapes winemaker, the winemaker must contribute \$13.00 for each tonne of grapes delivered during the prescribed period.
- (2) The contributions are payable on or before the last day of the month that immediately follows the prescribed period.
- (3) Contributions payable by a grower under subregulation (1)(a)(i) must be paid on behalf of the grower by the Adelaide Hills grapes winemaker who purchases the grapes out of the amount payable by the winemaker to the grower for the grapes.
- (4) An Adelaide Hills grapes winemaker must—
  - (a) keep proper records relating to the tonnage of Adelaide Hills grapes delivered to the winemaker, the growers of those grapes 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.
- (5) An Adelaide Hills grapes 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 (on the winemaker's own behalf and on behalf of growers) for Adelaide Hills 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 annual financial statement required by paragraph (a), the required contributions (on the winemaker's own behalf and on behalf of growers) for Adelaide Hills grapes delivered during the prescribed period to which the financial statement relates.
- (6) Refunds of contributions paid in respect of Adelaide Hills grapes delivered during a prescribed period may be claimed by notice in writing to the Minister within the 12 months following that prescribed period as follows:
  - (a) a grower of Adelaide Hills grapes may claim a refund in respect of contributions paid by an Adelaide Hills grapes winemaker on behalf of the grower;
  - (b) an Adelaide Hills grapes winemaker may claim a refund in respect of contributions paid on the winemaker's own behalf.
- (7) A person claiming a refund under subregulation (6) 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.

- (8) 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.
- (9) In subregulation (8)—
- 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.

## **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 Adelaide Hills grapes winemakers and growers of Adelaide Hills grapes for 1 or more of the following purposes:
- (i) the reasonable operating and management expenses of the body;
  - (ii) promoting the Adelaide Hills wine industry;
  - (iii) undertaking or facilitating research and development, or the collection and dissemination to Adelaide Hills grapes winemakers and growers of Adelaide Hills grapes of information, relevant to the Adelaide Hills wine industry and, in particular, to the improvement of practices in the industry;
  - (iv) programs designed to encourage communication and cooperation between Adelaide Hills grapes winemakers and growers of Adelaide Hills grapes;
  - (v) other purposes of the body;
- (b) payments for other purposes for the benefit of the Adelaide Hills wine industry;
- (c) payment of the expenses of administering the Fund;
- (d) repayment of contributions to the Fund under regulation 5.

## **7—Exchange of information**

The Minister may provide a body to which payments are made out of the Fund under regulation 6(a) with information identifying growers of Adelaide Hills grapes and Adelaide Hills grapes winemakers who have paid or been refunded contributions under these regulations or the revoked regulations.

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

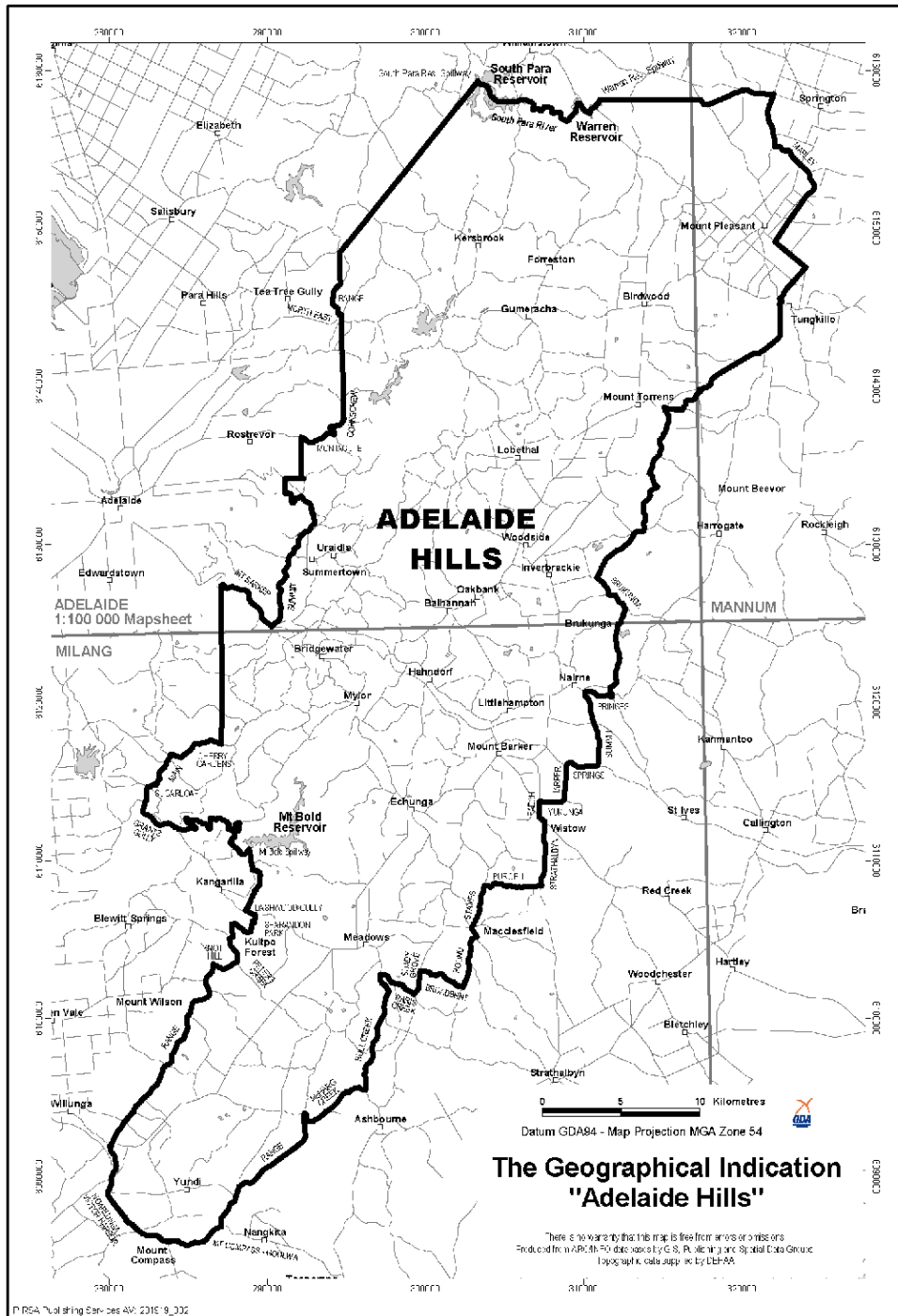
A person who is in default in relation to contributions to the Fund is not entitled to receive direct benefits or services funded by payments from the Fund.

## **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.

**Schedule 1—Map showing Adelaide Hills**



**Schedule 2—Revocation of *Primary Industry Funding Schemes (Adelaide Hills Wine Industry Fund) Regulations 2003***

The *Primary Industry Funding Schemes (Adelaide Hills Wine Industry Fund) Regulations 2003* are revoked.

## 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  |
|------|-----|---------------------------------|---------------|
| 2017 | 335 | <i>Gazette 12.12.2017 p5019</i> | 1.6.2018: r 2 |